

670 - RETIREMENT REGULATIONS

670 RETIREMENT671 Participation in the Foreign Service Retirement and Disability System671.1 General671.1-1 Authority

The regulations contains in 3 FAM 671 through 673 are prescribed under authority of sections 303, 801a, 803(c), 853 and 881(a) of the Foreign Service Act of 1946, as amended, and of Executive Order 10897 dated December 2, 1960.

671.1-2 Definitions

The following terms used in 3 FAM 671 through 673 are defined as follows:

a. Fund means the Foreign Service Retirement and Disability Fund,

b. Annuitants means persons who are receiving annuities from the Fund and all persons, including surviving wives and husbands, widows, dependent widowers, children and beneficiaries of participants or annuitants who shall become entitled to receive annuities in accordance with the provisions of the Foreign Service Act of 1946, as amended; or in accordance with the provisions of section 5 of the Act of May 1, 1956, as amended (70 Stat. 125); or who having met the legal requirements for retirement on an annuity under the Foreign Service Act of 1946, as amended, have been separated from the Service and are awaiting the effective date of retirement established in accordance with 5 U. S. C. 47a (see 3 FAM 672.1-4 and 672.2-7) at which time their annuity will commence.

c. Widow means the surviving wife of a participant who was married to such participant for a least 2 years immediately preceding his death or is the mother of issue by such marriage.

d. Dependent widower means the surviving husband of a participant who was married to such participant for at least 2 years immediately preceding her death or is the father of issue by such marriage, and who is incapable of self-support by reason of mental or physical disability, and who received more than one-half of his support from such participant. To determine mental or physical disability a widower must undergo a physical examination which will be arranged by the Department without cost to him. If he meets the disability requirement, proof of more than one-half support will also be required.

e. Child means an unmarried child, under the age of 18 years, or an unmarried child regardless of age who because of physical or mental disability incurred before age 18 is incapable of self-support. To determine such physical or mental disability, a child must undergo a physical examination which will be arranged by the Department without cost to the family. In addition to the offspring of the participant and his or her spouse the term includes (a) an adopted child, and (b) a step-child or recognized natural child who received more than one-half of his support from the participant.

671.1-3 Participants

The following persons are participants in the Foreign Service Retirement and Disability System:

a. Any Foreign Service officer;

b. Any chief of mission not otherwise entitled to be a participant who has served as chief of mission for an aggregate period of 20 years or more, exclusive of extra service credit for service at unhealthful posts, and who has paid into the Foreign Service Retirement and Disability Fund a special contribution for each year of such service;

c. Any other person making contributions to the Fund on November 13, 1946;

d. After October 1, 1961, any staff employee appointed by the Secretary of State who has completed at least 10 years of continuous creditable service in the Department's Foreign Service, exclusive of military service and exclusive of any periods of leave without pay for more than an aggregate of 6 months in any calendar year except while receiving benefits under the Federal Employees Compensation Act of September 17, 1916, as amended. (Any staff employee who on or after October 16, 1960, met the above requirements could elect to become a participant before October 1, 1961.)

671.2 Mandatory Participation of Foreign Service Staff Employees

Any staff employee who meets the service requirement in 3 FAM 671.1-3d shall become a participant in the Foreign Service Retirement and Disability System as follows:

a. Completion of Service Requirement Prior to October 1, 1961

Any staff employee who, prior to October 1, 1961, met the service requirement in 3 FAM 671.1-3d but who did not apply for earlier participation became a participant on October 1, 1961. (See 3 FAM 673.5-1a for transfer of compulsory contributions and 3 FAH 671.2 for refund of voluntary contributions.)

b. Completion of Service Requirement on and After October 1, 1961

A staff employee who completes the service requirement in 3 FAM 671.1-3d on or after October 1, 1961 should complete, in triplicate, Form FS-367, Application for Service Credit, and submit all copies of this Form to the Department approximately 60 days prior to the date on which he will complete the service requirement. Participation in the Foreign Service Retirement and Disability System will become effective on the first day of the first pay period of the month following completion of service requirement. (See 3 FAM 673.5-1a for transfer of compulsory contributions and 3 FAH 671.2 for voluntary contributions.)

671.3 Compulsory Contributions

671.3-1 Amount of Contributions

Compulsory contributions became effective as of July 1, 1924. Service prior to that time is creditable without the necessity of a special contribution. From July 1, 1924, to October 16, 1960, all participants were required to contribute as follows:

a. For the period July 1, 1924, through June 30, 1931, 5 percent of basic salary not in excess of \$9,000;

b. For the period July 1, 1931, through November 12, 1946, 5 percent of basic salary not in excess of \$10,000;

c. For the period November 13, 1946, through August 4, 1955, 5 percent of basic salary not in excess of \$13,500; and

d. For the period August 5, 1955, through October 15, 1960, 5 percent of full basic salary. (See 3 FAM 221.1 for definition of basic salary).

Beginning October 16, 1960 each participant is required to contribute 6-1/2 percent of his full basic salary to the Fund. The contributions from salary, together with the contributions from the salary appropriation, shall be deposited by the Department in the Treasury of the United States to the credit of the Fund.

671.3-2 Additional Compulsory Contributions on Salaries Received Prior to August 5, 1955

If any part of a participant's highest 5 consecutive years of service occurred prior to August 5, 1955, and he wishes to have his annuity computed on the full basic salary received, he may do so by making an additional contribution equal to the difference between the amount contributed at the time salary was received and 5 percent of the full basic salary received during the period elected by the participant, including any intervening period prior to August 5, 1955, with interest to date of payment compounded annually at 4 percent. Such additional compulsory contribution shall be deposited in full not later than the date of retirement. (See 3 FAH 671.3 for procedure.) A participant should bear in mind that if he completes 5 years of service subsequent to August 5, 1955, at a salary as high or higher than he received prior to August 5, 1955, his annuity would not be increased by making such additional contributions.

671.3-3 Periods of Leave Without Pay and Military Service

Contributions may not be made for any periods of leave without pay. Contributions are not required for periods during which a participant is on military furlough, or for periods of military service prior to becoming a participant.

671.3-4 Refunds of Compulsory Contributions Upon Separation before Becoming Eligible for Annuity or Deferred Annuity

Whenever a participant becomes separated from the Service without becoming eligible for an immediate annuity or a deferred annuity, or if he is eligible for a deferred annuity but elects to receive a refund of his contributions as provided in 3 FAM 672.1-5, the total amount of compulsory contributions from his salary, with interest thereon as prescribed in section 841(a) of the Foreign Service Act of 1946, as amended, shall be returned to him upon:

- a. Submission by the participant of completed Form FS-316, Application for Refund (see 4 FAM 478.1-2); and
- b. Submission by the budget and fiscal officer of participant's current pay record.

671.3-5 Disposition of Compulsory Contributions Upon Resignation to Accept Position Under Another Retirement System

Any participant who resigns to accept a position in the Federal Government under another retirement system for civilian employees shall withdraw from participation in the Foreign Service Retirement and Disability System. Such participant may receive a refund of his contributions, with interest, accrued through the date of separation or, if he has 5 years of service credit toward retirement, he may leave his contributions in the Fund and receive an annuity in accordance with 3 FAM 672.1-5. If subsequently such person again becomes a participant, he is not obliged to redeposit his withdrawn contributions; however, in order to receive credit towards retirement for such prior service, the participant must redeposit the contributions in the manner prescribed in 3 FAM 673.5.

671.3-6 Refund of Contributions in Excess of Annuity Payments

In the event that the total compulsory contributions of a retired participant, with interest at 4 per cent per annum compounded annually, exceed the total amount returned to such participant or to an annuitant claiming through him, the excess of the accumulated contributions over the accumulated annuity payments shall be paid in the order of precedence shown below upon the establishment of a valid claim. Payment made in accordance with this provision shall be a bar to recovery by any other person:

- a. To the beneficiary or beneficiaries designated by the retired participant in writing to the Secretary;
- b. If there be no such beneficiary, to the surviving wife or husband of such participant;
- c. If none of the above, to the child or children of such participant and descendants of deceased children by representation;
- d. If none of the above, to the parents of such participant or the survivor of them;
- e. If none of the above, to the duly appointed executor or administrator of the estate of such participant;
- f. If none of the above, to other next of kin of such participant as may be determined by the Secretary in his judgment to be legally entitled thereto. No payment shall be made pursuant to this paragraph until after the expiration of 30 days from the death of the retired participant or his surviving annuitant.

671.3-7 Designation of Beneficiary or Beneficiaries to Receive Compulsory Contributions (See 3 FAM 671.4-6 for Designation of Beneficiary for Voluntary Contributions)

A designation should be made only if the participant wishes to name some other person or persons not mentioned in the prescribed order of precedence or if he wishes to name a mentioned person in a different order or for a different share. Participants should bear in mind that changes in family status without a corresponding change in designation or cancellation of beneficiary may result in a settlement other than that intended by him. A designation of beneficiary is for lump-sum benefit purposes only, and does not affect the right of any person who qualifies to receive survivor annuity benefits. Such benefits are payable either by operation of law or as a result of an election made by a retiring participant. Upon request, participants will be furnished with a blank Form FS-560: Designation of Beneficiary. The following shall apply:

a. The Designation of Beneficiary shall be in writing, signed and witnessed by two persons who observed the signing of the document, and received in the Department of State prior to the death of the participant.

b. No change or cancellation of beneficiary in a last will or testament, or in any other document not witnessed and filed as required by these regulations shall require the Department to pay any alleged beneficiary other than the beneficiary designated by the document witnessed and filed in accordance with these regulations. Payment to the beneficiary so designated shall relieve the Department of liability to any other claimant.

c. A witness to a designation of beneficiary is ineligible to receive payment as a beneficiary.

d. A change of beneficiary may be made at any time and without the knowledge or consent of the previous beneficiary, unless the participant has obligated himself under appropriate state law not to do so. If the Department is not notified of the existence of any such obligation before payment is made, payment to the beneficiary designated in accordance with the Department's regulations discharges the Department of any further responsibility.

671.4 Voluntary Contributions

671.4-1 Payroll Deductions

A participant who wishes to obtain a larger retirement annuity than is otherwise provided may make voluntary contributions by payroll deductions to the Fund during any given year in amounts of multiples of one percent, but not exceeding 10 percent, of his basic salary.

671.4-2 Prior Service

A participant so desiring may also make voluntary contributions covering any period of civilian Government service he has had since July 1, 1939, the date voluntary contributions became acceptable. This may include periods of civilian Government service prior to becoming a participant for which credit has been purchased. Such contributions, made (preferably in a lump-sum,) shall be in multiples of 1 percent, but not exceeding 10 percent, of the participant's basic annual salary earned during the period of service covered. (See 3 FAH 671.4 for procedure to be followed.)

671.4-3 Periods of Leave Without Pay and Military Service

Voluntary contributions may not be made for any periods of leave without pay, for periods during which a participant is on military furlough, or for periods of military service prior to becoming a participant, except that if a participant, prior to April 1, 1948, made compulsory contributions for any period of military service, he may make voluntary contributions for such period.

671.4-4 Benefits

At time of retirement the amount of a participant's voluntary contributions, together with interest at 3 percent per annum, compounded as provided by section 881(a) of the Foreign Service Act of 1946, as amended, shall in accordance with the election made by the participant on Form FS-374a, Distribution of Voluntary Deposits and Designation of Beneficiary, be used in one of the following ways:

a. Option 1

Returned to him in a lump-sum.

b. Option 2

Used to purchase an additional life annuity with the option of electing either a forfeiture or a refund annuity.

c. Option 3

Used to purchase an additional life annuity for himself and to provide for a cash payment on his death to a beneficiary whose name he shall designate in writing to the Secretary, with the following options:

- (1) Cash payment of total amount to designated beneficiary plus annuity for self from interest accruing after retirement,
- (2) Forfeiture annuity for self with specified cash payment to designated beneficiary, or
- (3) Refund annuity for self with specified cash payment to designated beneficiary.

d. Option 4

Used to purchase an additional life annuity for himself and a life annuity commencing on his death payable to a beneficiary whose name he shall designate in writing to the Secretary with a guaranteed return to the beneficiary or his legal representative of an amount equal to the cash payment referred to under Item c. The participant may elect:

- (1) Equal annuities for himself and beneficiary; or
- (2) A beneficiary's annuity equal to one-half of his own reduced annuity.

If annuities are elected, they shall be actuarially equivalent in value to the payment provided by Item (1) above and shall be computed on the basis of actuarial tables furnished periodically by the Secretary of the Treasury. Any benefits payable to a participant or his beneficiary as a result of voluntary contributions shall be in addition to those set forth in 3 FAM 673.

671.4-5 Designation of Beneficiary

A participant making voluntary contributions to the Fund should make a designation for purposes of lump-sum payment of such voluntary contributions. Designations for this purpose shall be made on Form FS-374, Election of Voluntary Deposits and Designation of Beneficiary.

671.4-6 Refund of Voluntary Contributions

In no event can voluntary contributions be withdrawn prior to the date of retirement, except when a participant is separated from the Service for reasons other than retirement on an annuity. When a participant so separates, the amount of his voluntary contributions with interest may be refunded to him upon submission of Form FS-316, Application for Refund (see 4 FAM 478.1-2). In case of the death of the participant, the voluntary contributions and interest as stated above shall be paid, upon establishment of a valid claim therefor, in the order of precedence shown in 3 FAM 671.3-6.

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672 Retirement Under Foreign Service Retirement and Disability System

672.1 Voluntary Retirement

672.1-1 Eligibility

The following participants may apply for voluntary retirement:

a. Any participant who is at least 50 years of age and has 20 years of creditable service may on his own application and with the consent of the * Chief, Personnel Operations Division, be retired from the Service. The voluntary retirement of a Foreign Service officer who was appointed under the provisions of section 517 of the Foreign Service Act of 1946, as amended, will not normally be approved until he has completed 5 years of service abroad in the Foreign Service of the United States. This provision may be waived by the Chief, Personnel Operations Division, when he believes it is in the interest of the Service to do so. * For the purpose of this regulation, service abroad shall be computed in accordance with the following:

(1) Service abroad shall include:

- (a) All periods of time spent in actual work status at post of assignment while assigned abroad.
- (b) All periods of leave granted while assigned abroad.
- (c) All periods of authorized consultation or detail away from post of assignment while assigned abroad.
- (d) All periods of time actually served abroad as a Foreign Service inspector or traveling fiscal officer.

(2) Service abroad shall not include:

- (a) Periods of assignment in the United States.
- (b) Periods of time spent in the United States as a Foreign Service inspector or traveling fiscal officer.

b. Any staff employee who becomes a participant and who was age 57 or over on October 16, 1960, may retire voluntarily at any time before reaching the prescribed mandatory retirement age.

* Any participant wishing to retire under this provision should request the approval of the Chief, Personnel Operations Division, approximately 3 months prior to the anticipated date of separation. A Form FS-304, Residence and Dependency Report, showing the employee's separation address should be attached to the application. *

672.1-2 Cessation of Authority to Act for Government

After the date of separation for retirement, a participant is not authorized to act on behalf of the United States Government and is entitled only to such salary and allowance payments as may be due him for service on and before the date of separation.

672.1-3 Date of Separation for Voluntary Retirement

The separation date of a participant other than a chief of mission retiring voluntarily shall be the date of relinquishment of duties, or the date on which authorized consultation in the Department, approved leave, and/or allowable transit time, whichever is later, is completed. In the case of a participant retiring voluntarily while chief of mission, the date of separation shall be the date of relinquishment of duties or the date on which authorized consultation in the Department and/or allowable transit time is completed, provided this period does not extend beyond 50 calendar days from the date of relinquishment of duties. (See 3 FAM 432.7 for granting leave prior to voluntary retirement for participants other than chiefs of mission.)

672.1-4 Effective Date of Voluntary Retirement and Commencement of Annuity

The effective date of voluntary retirement is the first day of the month following separation. Annuity commences as of that date and is payable thereafter at the end of each month. In order for a participant to remain in a pay status up to the date on which his annuity commences, he should arrange to complete the actions listed in 3 FAH 672.1 by the last day of the month.

672.1-5 Discontinued Service Retirement

Any participant who, on or after October 16, 1960, voluntarily separates from the Service after obtaining at least 5 years of service credit toward retirement under the Foreign Service Retirement and Disability System, excluding military or naval service, may, upon separation from the Service or at any time prior to becoming eligible for an annuity, elect to have his contributions returned to him in accordance with the provisions of 3 FAM 671.3-4 or 671.4-6 or to leave such contributions in the Fund and receive an annuity commencing on the first day of the month following the month in which he reaches age 60. If a participant who has qualified to receive a deferred annuity dies before reaching age 60, his contributions to the Fund, with interest, shall be paid in accordance with the provisions of 3 FAM 671.3-6 and 671.4-6.

672.2 Involuntary Retirement (See also 3 FAM 730, Separation by Selection-Out)

672.2-1 Upon Termination of Appointment as Chief of Mission

The official services of a participant serving as chief of mission shall continue until he has relinquished charge of the mission and for such additional period as may be determined by the Deputy Assistant Secretary for Personnel, but such additional period shall not exceed 30 calendar days, including time spent in transit. In unusual cases, when the Deputy Assistant Secretary for Personnel determines that there is sufficient justification therefor, he may extend such additional period up to a total of 50 calendar days. During such period the Deputy Assistant Secretary for Personnel may require him to render such services as he may deem necessary in the interest of the Government. At the end of that time a chief of mission who is a Foreign Service officer will revert to his current FSO class. If, within 3 months of the date of termination of his services as chief of mission, and any period of authorized leave, a Foreign Service officer has not again been appointed or assigned as chief of mission, or assigned in accordance with the provisions of section 514 of the Foreign Service Act of 1946, he shall be retired from the Service on an annuity.

672.2-2 Age Retirement of Career Ambassador or Career Minister

Any career ambassador or career minister other than one occupying a position as chief of mission or any other position to which he has been appointed by the President, by and with the advice and consent of the Senate, shall, upon reaching the age of 65 years, be retired from the Service, except when the Secretary determines it to be in the public interest to extend such officer's service for a period not to exceed 5 years. A career ambassador or career minister occupying a position as chief of mission or any other position to which he has been appointed by the President, by and with the advice and consent of the Senate, who reaches mandatory retirement age shall not be required to retire from the Service so long as he serves in such position. (See 3 FAM 672.2-6d for separation date.)

672.2-3 Age Retirement of Participants Other than Career Ambassador or Career Minister

A participant other than one occupying a position as chief of mission or any other position to which he has been appointed by the President, by and with the advice and consent of the Senate, who is not a career ambassador or career minister shall, upon reaching the age of 60 years, be retired from the Service, except when the Secretary determines it to be in the public interest to extend such participant's service for a period not to exceed 5 years. A participant other than a career ambassador or career minister who is occupying a position as chief of mission or any other position to which he has been appointed by the President, by and with the advice and consent of the Senate, who reaches mandatory retirement age shall not be required to retire from the Service so long as he serves in such position. (See 3 FAM 672.2-6d for separation date.)

672.2-4 Age Retirement of Staff Employees Under Foreign Service Retirement and Disability System

Any staff employee who is a participant shall be retired when he reaches the mandatory retirement age shown below:

<u>AGE</u>	<u>RETIREMENT DATE</u>
Age 64 or older on October 1, 1963	October 31, 1963.
Attainment of age 64 between October 2, 1963 and September 30, 1964	End of month in which age 64 is attained.
Becomes participant at age 64 or over between October 2, 1963 and September 30, 1964	End of month in which he becomes participant.
Age 63 or older on October 1, 1964	October 31, 1964.
Attainment of age 63 between October 2, 1964 and September 30, 1965	End of month in which age 63 is attained.
Becomes participant at age 63 or over between October 2, 1964 and September 30, 1965	End of month in which he becomes a participant.
Age 62 or older on October 1, 1965	October 31, 1965.
Attainment of age 62 between October 2, 1965 and September 30, 1966	End of month in which age 62 is attained.
Becomes participant at age 62 or over between October 2, 1965 and September 30, 1966	End of month in which he becomes participant.
Age 61 or older on October 1, 1966	October 31, 1966.
Attainment of age 61 between October 2, 1966 and September 30, 1967	End of month in which age 61 is attained.
Becomes participant at age 61 or over between October 2, 1966 and September 30, 1967	End of month in which he becomes participant.
Age 60 or older on October 1, 1967	October 31, 1967.
Attainment of age 60 on and after October 2, 1967	End of month in which age 60 is attained.
Becomes participant at age 60 or older on or after October 2, 1967	End of month in which he becomes participant.

672.2-5 Cessation of Authority to Act for Government

(See 3 FAM 672.1-2.)

672.2-6 Dates of Separation for Involuntary Retirement

Separation dates, pursuant to involuntary retirement, are established as follows:

- a. The separation date of a participant retired under the provisions of 3 FAM 672.2-1 shall be the expiration date of the 3-month period authorized in that section, and any period of approved leave.
- b. The separation date of a participant retired under the provisions of 3 FAM 672.2-2 shall be the end of the month in which he reaches age 65, or the date to which the Secretary has determined an extension of the officer's service to be in the public interest.
- c. The separation date of a participant retired under the provisions of 3 FAM 672.2-3 shall be the end of the month in which he reaches age 60, or the date to which the Secretary has determined an extension of the officer's service to be in the public interest.
- d. The separation date of a participant who has passed mandatory retirement age, but who is occupying a position as chief of mission or any other position to which he has been appointed by the President, by and with the advice and consent of the Senate, shall be the expiration date of his appointment to such position.
- e. The separation date of a participant retiring under 3 FAM 672.2-4 shall be the applicable date shown in that section.

672.2-7 Effective Date of Involuntary Retirement and Commencement of Annuity

The effective date of involuntary retirement is the first day of the month following separation. Annuity commences as of that date and is payable thereafter at the end of each month.

672.3 Disability Retirement**672.3-1 Eligibility****a. Eligibility Requirements**

Any participant shall be retired for disability under section 831 of the Foreign Service Act of 1946, as amended (hereinafter referred to as "the Act"), upon his own application or upon order of the Department when:

- (1) He has five years of service for which full contributions have been made to the Foreign Service Retirement and Disability Fund, excluding military or naval service that is credited in accordance with provision of 3 FAM 673.4-2 and 673.5-3; and
- (2) He becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness, or injury not due to vicious habits, intemperance, or willful misconduct on his part.

b. Annuity Computation

A participant retired for disability shall have his annuity computed in accordance with 3 FAM 673.1-1, except that if he has 5 but less than 20 years of service credit toward retirement under the System at the time he is retired, his annuity shall be computed on the assumption that he has 20 years of service. The additional service credit that may accrue under this provision shall in no case exceed the difference between the participant's age at the time of his retirement and the mandatory retirement age applicable to his class in the Service.

c. Election Between Retirement Annuity and Employees' Compensation

As a general rule, a participant who is disabled or injured in the line of duty may not receive both an annuity under the Act and compensation under the Federal Employees' Compensation Act for the same period of time. Therefore, he should apply for whichever benefit is to his advantage.

Even though the participant elects to receive compensation, he should also apply for retirement upon separation from his position, although annuity payments will be suspended during the period he is receiving compensation. If he so applies, he will protect his own annuity rights and whatever survivor rights he has under the Act should Employee's Compensation be discontinued. If he does not wish to apply for retirement he will be eligible to obtain a refund of his contributions. However, if he applies for and receives a refund he will lose his right to the annuity.

The general bar against receipt of annuity and compensation at the same time is subject to the following exceptions:

- (1) An employee receiving compensation benefits as a consequence of the death of another person may also receive annuity under the Act on the basis of his own service.
- (2) The right of any person entitled to an annuity under the Act is not affected because he has received a lump-sum benefit under the Federal Employees' Compensation Act, unless his annuity is payable on account of the same disability for which compensation has been paid. In the latter case, it is necessary for the annuitant to refund to the Bureau of Employees' Compensation, Department of Labor, as much of such compensation as has been paid for any period extending beyond the effective date of the annuity.

672.3-2 Initiation of Disability Retirement Actions**a. By the Participant**

Any participant who believes that he meets the eligibility requirements set forth in 3 FAM 672.3-1a may submit a letter to the Secretary requesting that he be considered for disability retirement.

He must include in his letter a description of his disability and a full explanation of the manner in which it affects the performance of his duties. He may enclose with his application a statement by his private physician describing his physical condition. His failure to enclose a physician's statement, however, shall not adversely affect the consideration of his application.

If he is assigned to a specific position in the Department or to a post other than the Department, he must inform his immediate supervisor that he has applied for disability retirement and advise him of the date of his application. If he is not so assigned, he must notify the Personnel Operations Division.

b. By the Department

The Chief, Personnel Operations Division, shall by memorandum recommend to the Director, Office of Personnel, the retirement for disability of any participant:

- (1) Whose service record (including performance and medical reports, reports of inspectors and supervisors, etc.) establishes a reasonable assumption that he is totally disabled or incapacitated for useful and efficient service;

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(2) Who meets the minimum service requirement established under 3 FAM 672.3-1; and

(3) Who has failed to make application for disability retirement on his own behalf, or is mentally or physically unable to do so.

The memorandum shall include a request that the participant be given a physical examination in the manner prescribed under these regulations, and shall provide a description of his disability or incapacity as it affects the performance of his duties.

If the Director of Personnel approves initiation of the action, the Chief, Personnel Operations Division, shall notify the participant in writing and state the reasons therefor. A copy of this memorandum shall be sent to the participant's immediate supervisor, if he is assigned to a specific bureau or post, or to the appropriate branch of the Personnel Operations Division if he is not so assigned.

c. Supervisor's Statement

On request of the Department, the immediate supervisor of any participant being considered for disability retirement shall prepare a statement:

(1) Describing in detail the apparent nature of the applicant's disability and explaining the manner in which it affects the performance of his official duties; and

(2) Indicating whether, on the basis of information available to him:

(a) The participant appears to be totally disabled or incapacitated for useful and efficient service; and

(b) The disability or incapacity appears to be the result of his own vicious habits, intemperance, or misconduct.

d. Routing of Actions

Actions initiating disability retirement consideration and supervisor's statements, when requested, will be routed to the Medical Division through the Personnel Services Division.

672.3-3 Physical Examinations

Each participant considered for disability retirement shall be given a physical examination by one or more duly qualified physicians or surgeons, in accordance with the following procedures:

a. Examination by the Medical Director

Except as provided under paragraph b below, the examination of participants being considered for disability retirement shall be conducted by, or under the direction of, the Medical Director of the Department of State.

b. Examination by a Board of Medical Examiners

(1) When a Board Will be Used

Participants being considered for disability retirement shall be examined by a Board of Medical Examiners composed of three qualified physicians or surgeons in the following instances:

(a) When the disability retirement action is initiated by the Department;

(b) When a participant initiating a disability retirement action elects to be examined by a Board;

(c) When a participant appeals a determination based on an examination conducted by, or under the direction of, the Medical Director; or

(d) When the Director, Office of Personnel, determines it to be in the interest of the Government to do so.

(2) Designation of Boards

Upon receipt of a proposed disability action for which a board is required, the Medical Director shall nominate three qualified physicians or surgeons to constitute the board. The Director, Office of Personnel, will review the nominations, and designate the members of the board. In designating the boards, at least one member must be an expert or consultant appointed by the Department who is not a regular, full-time officer or employee of the Federal Government, and not more than one member of a board may be a regular, full-time employee of the Department of State.

(3) Notification of Designation

Upon designation of the board, the Medical Director shall notify the members in writing of their designation.

(4) Operation of Boards

The members of a board shall have access to the medical file of the participant being examined, the application or memorandum which initiated the action, and the supervisor's statement, if any. They shall conduct, or arrange for, such tests and examinations as they consider necessary.

c. Report of Physical Examination

The Medical Director, or the Board of Medical Examiners if a board is used, shall make a written report to the Director of Personnel setting forth the results of each examination. This report shall be comprehensive, and shall include pertinent data on all disabling or incapacitating conditions found or alleged to exist.

The report shall also contain a statement of opinion on the following points:

(1) Whether or not the participant is totally disabled or incapacitated for useful and efficient service.

(2) If the participant is considered to be totally disabled:

(a) Whether the disability or incapacity was caused by disease, illness, or injury, but not due to vicious habits, intemperance, or willful misconduct; and

(b) Whether the disability or incapacity is permanent.

All reports shall be submitted by the Medical Director to the Director of Personnel through the Personnel Services Division.

672.3-4 Determination of Disability

Upon review of the report of the Medical Director, or of the Board of Medical Examiners, the Director of Personnel shall determine:

a. Whether or not the participant is totally disabled or incapacitated for useful and efficient service; and

b. If the participant is determined to be totally disabled or incapacitated:

(1) Whether the disability or incapacity was caused by disease, illness, or injury, but not due to vicious habits, intemperance, or willful misconduct; and

(2) Whether the disability or incapacity is permanent.

These determinations shall constitute determination of the participant's disability or incapacity within the meaning of section 831 of the Act unless within a period of 30 days he shall have requested that one or more of the determinations be reconsidered under the provisions of 3 FAM 672.3-8.

The Chief, Personnel Operations Division, shall notify the participant in writing of the foregoing determinations.

672.3-5 Effective Dates for Disability Retirements

a. Date of Separation for Disability Retirement

Upon the approval by the Department of a disability retirement, the effective date of separation for disability retirement shall be established as follows:

(1) If the participant is then on leave without pay, the effective date of separation shall be the last day of the current month.

(2) If the participant is then on annual leave, the effective date of separation shall be the last day of the current month. The participant shall continue on annual leave to which he is entitled and/or leave without pay between the date of approval and the end of the calendar month.

(3) If the participant is then on sick leave, the effective date of separation shall be the last day of the month in which sick leave expires. Annual leave to which the participant is entitled and/or leave without pay shall be granted to bridge the gap between the date on which the sick leave expires and the effective date of separation.

(4) If the participant is still at work on the date of approval, he may be granted up to the maximum amount of sick leave to which he is entitled and for which he may apply. The effective date of separation in such case shall be the last day of the month in which sick leave expires. Annual leave to which the participant is entitled, and/or leave without pay, shall be granted to bridge the gap between the date on which the sick leave expires and the effective date of separation.

If separation at the end of a particular month would cause forfeiture of any annual leave which could not be included in a lump-sum payment, the participant may find it advantageous to be carried on annual leave and/or leave without pay to the end of the following month. Moreover, since the annuity is payable for full months only, it may be advantageous to the participant for the annual or sick leave period to terminate at the end of a calendar month instead of extending into the following month. In either case, the participant should be so informed.

b. Effective Date of Disability Retirement for Payment of Annuity

The effective date of disability retirement for payment of annuity shall be the first day of the month following termination of pay status unless the participant becomes disabled while on leave without pay. In the latter case the effective date of retirement for payment of annuity shall be the first day of the month following the month in which the participant became disabled.

Service credit shall be allowed through the effective date of separation for disability retirement, subject to the provisions of 3 FAM 673.5-2.

Annuity accrues monthly and is payable on the first day of the month following the one for which the annuity has accrued.

672.3-6 Annual Review and Evaluation of Disability Status

Each annuitant whose total disability or incapacity is not determined to be permanent shall be given a physical examination annually from the effective date of retirement until one of the following conditions exists:

- (1) The disability is determined to be permanent;
- (2) The annuitant has reached the statutory mandatory retirement age for his class;
- (3) The annuitant has recovered.

Whenever an annuitant's disability is determined to be of a permanent character, he shall not again be given an examination, unless in the opinion of the Director of Personnel such action is warranted by unforeseen circumstances or conditions subsequently found to exist.

a. Physical Examinations

Unless the disability has been determined to be permanent, the Medical Director shall arrange for the required annual physical examination of an annuitant retired for disability or incapacity prior to the anniversary of the effective date of his retirement. The annual examinations will be conducted by, or under the direction of, the Medical Director, or by a board of medical examiners as provided in 3 FAM 672.3-3a and 672.3-3b.

The Medical Director may at any time subsequent to the initial examination on which disability or incapacity was determined, on the basis of further medical information available to him, submit a recommendation to the Director of Personnel, that an annuitant's disability or incapacity is permanent.

b. Report of Physical Examination

The Medical Director, or the Board of Medical Examiners, shall make a written report setting forth the results of the examination. The report shall also contain a statement of opinion by the Medical Director, or the Board, on the following points:

- (1) Whether the annuitant continues to be totally disabled or incapacitated for useful and efficient service; and
- (2) If so, whether the disability or incapacity is permanent.

All reports shall be submitted by the Medical Director through the Personnel Services Division, to the Director of Personnel.

c. Determination of Disability Status

Upon review of the report of the Medical Director, or of the Board of Medical Examiners, the Director of Personnel shall determine:

- (1) Whether the annuitant continues to be totally disabled or incapacitated for useful and efficient service; and
- (2) If so, whether the disability or incapacity is permanent.

d. Advice to Annuitant

The Chief, Personnel Operations Division, shall notify the annuitant in writing of the foregoing determinations.

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e. Failure to Submit for Examination

If a disability annuitant fails to submit to the examination or examinations required under paragraph a above, payment of his annuity shall be suspended until he complies.

672.3-7 Reinstatement or Reappointment of Recovered Annuitants

Whenever on the basis of a physical examination the Director of Personnel determines that an annuitant has recovered to the extent that he can return to duty and is no longer disabled or incapacitated for useful and efficient service, the annuitant may, within a period of one year from the date on which his recovery is determined, apply for reinstatement or reappointment in the Service as provided under 3 FAM 125.4-2.

If for any reason a recovered disability annuitant whose annuity is discontinued is not reinstated or reappointed in the Service, he shall be considered to have been separated within the meaning of section 834 of the Act as of the date on which he was retired for disability. In such event he shall, after discontinuance of the disability annuity, be entitled to the benefits of that section or of section 841(a) of the Act, or he may elect voluntary retirement under the provisions of section 636 of the Act if he can qualify therefor.

Payment of the annuity shall continue until a date six months after the date of the examination showing recovery or until the date of reinstatement or reappointment in the Service, whichever is earlier.

672.3-8 Appeals

A participant or annuitant who is dissatisfied with one of the determinations made under the provisions of 3 FAM 672.3-4 or 672.3-6c may request that his case be reconsidered.

a. Submission

The request, addressed to the Assistant Secretary of State for Administration, shall be submitted within a period of 30 days following the date of receipt of notification of the determination(s). It shall contain a full statement of the reason for seeking reconsideration and any pertinent data the participant or the annuitant may care to submit in rebuttal.

b. Availability of Medical Summary

A summary of the findings and conclusions reached in the physical examination and of the supervisor's statement, if any, will, upon request, be furnished to the participant or annuitant at the discretion of the Assistant Secretary of State for Administration. If the Assistant Secretary determines that the health and welfare of the participant or annuitant may be adversely affected thereby, or for some other reason considers that giving a copy to the individual would be inadvisable, he will make the summary and the supervisor's statement available to a duly licensed physician or surgeon designated in writing by the participant or annuitant for that purpose rather than to him.

c. Action by the Assistant Secretary of State for Administration

The Assistant Secretary of State for Administration shall review all appeals under this section, taking into account all of the data and information submitted by the participant or annuitant and all of the data and information previously considered by the Director of Personnel. He may have such additional examinations or investigations made as he considers necessary.

On the basis of his review, the Assistant Secretary shall recommend approval or disapproval to the Deputy Under Secretary of State for Administration.

d. Action by the Deputy Under Secretary of State for Administration

Based upon a review of the record, the Deputy Under Secretary of State for Administration shall approve or disapprove the determinations of the Assistant Secretary. Such action by the Deputy Under Secretary shall constitute final determination of the participant's disability or incapacity within the meaning of section 831 of the Act.

672.3-9 Allowable Physical Examination Expenses

Expenses, including travel, incurred in connection with the designation of physicians or surgeons and the physical examinations required under 3 FAM 672.3-3 and 672.3-6 will be paid as follows:

a. Participants

Expenses incurred in determining whether participants will be retired for disability or incapacity shall be paid in accordance with provisions of 3 FAM 680.

b. Annuitants

Upon approval of the Medical Director, the following expenses incurred in connection with the re-examination of annuitants shall be paid from the Foreign Service Retirement and Disability Fund:

- (1) Fees for the examinations;
 - (2) Reasonable travel and subsistence expenses of the annuitant to and from the place of examination when the annuitant is able to travel, without regard to the Standardized Government Travel Regulations;
 - (3) Reasonable travel and subsistence expenses of the designated physician(s) or surgeon(s) to and from the place of examination when the annuitant is physically unable to travel, without regard to the Standardized Government Travel Regulations;
- and

(4) Such additional expenses in connection with the examinations as are actually and necessarily incurred in the interest of the annuitant, e.g., superior travel accommodations, hospitalizations while undergoing examination, or travel expenses of an attendant.

Travel expenses in excess of the amounts allowable under 3 FAM 680 will not normally be approved.

672.4 Period Between Separation Date and Effective Date of Retirement

A participant who, after meeting the legal requirements for an immediate annuity under the Foreign Service Act of 1946, as amended, has been separated from the Service for retirement on an immediate annuity, and who dies during the period between his separation date and the effective date of his retirement shall be considered to be an annuitant. His survivors or beneficiaries are, therefore, entitled to any benefits provided by 3 FAM 673 which they would have received had the retiring participant died subsequent to the effective date of his retirement.

673 Annuities Under Foreign Service Retirement and Disability System

673.1 Computation of Annuity

673.1-1 Basic Formula for Computing Annuity

Except as provided in 3 FAM 673.1-2, the annuity of a participant shall be equal to 2 percent of his average basic salary for the highest 5 consecutive years of service for which full contributions have been made to the Fund, multiplied by the number of years, not exceeding 35, of service credit.

673.1-2 Exception to "Highest 5 Consecutive Years" Provision

The annuity of any participant whose continuity of service as chief of mission is interrupted by appointment or assignment to any other position of comparable importance shall be computed on the basis of the highest 5 years of service (not necessarily consecutive) for which full contributions have been made to the Fund. (See 3 FAM 671.3-1 and 671.3-2 for contributions to cover salaries in excess of the maximum salary on which contributions were made prior to August 5, 1955.) When a participant serving as chief of mission is appointed or assigned to a position other than that of chief of mission, determinations shall be made as to (1) whether his service as chief of mission was "interrupted", and (2) whether the position to which the officer is appointed or assigned is comparable in importance to a position of chief of mission. An interruption in the continuity of an officer's service as a chief of mission normally shall be deemed to occur when (1) it is determined that there are reasonable grounds for presuming that he would have continued to serve as a chief of mission had he not been appointed or assigned to the position in question, and (2) the officer is appointed or assigned to such position without

having reverted to his permanent FSO class following the termination of his services as a chief of mission. The determination as to whether the appointment or assignment constitutes an interruption of service as a chief of mission shall be made by the Deputy Under Secretary for Administration. If the position to which the officer is appointed or assigned is not already on the list of comparable positions in 3 FAM 151.2-3, the Office of Personnel shall submit to the Deputy Under Secretary for Administration its opinion as to whether or not the position is comparable in importance to that of chief of mission. If he considers that the position is a comparable position, he will submit a recommendation to this effect to the Board of the Foreign Service for approval. In order for an officer to have his annuity computed on the basis of the provisions of this section, the position which he occupied before April 30, 1958, or to which he is appointed or assigned on or after April 30, 1958, shall have to have been designated as comparable in importance to that of chief of mission prior to or at the time of his appointment or assignment to the position or during the period of his incumbency in the position.

673.2 Types of Annuities

673.2-1 Full Annuity

A full annuity is available to all retiring participants and provides annuity payments during the life of the retiring participant only. (See 3 FAM 671.3-6 re refund of contributions in excess of annuity payments.) A full annuity is computed by using the basic formula given in 3 FAM 673.1-1.

673.2-2 Reduced Annuity with Annuity to Surviving Wife or Husband

A reduced annuity with annuity to surviving wife or husband is available to each retiring participant who is married at the time of his retirement. A participant who elects this type of annuity will, during his or her lifetime, receive a reduced annuity and, upon his or her death, a survivor annuity will be payable to the wife or husband. If a participant who has elected a survivor annuity is thereafter divorced, the participant may make a new election. The survivor annuity will begin on the day following the annuitant's death and will terminate on the date of death of the surviving wife or husband. The survivor's annuity will be 50 percent of all or whatever portion of the retiring participant's full annuity he or she specifies as a base for the survivor benefit. The reduction in the retiring participant's annuity will be 2-1/2 percent of any amount up to \$2,400 the participant specifies as a base for the survivor benefit, plus 10 percent of any amount over \$2,400 so specified. (See examples in 3 FAH 673.1-2.)

673.2-3 Reduced Annuity with Annuity Payable to Designated Beneficiary Other than Wife or Husband

At the time of retirement, an unmarried participant may elect by submission in quadruplicate of Form FS-559, Election of Annuity Benefits, to receive a reduced annuity during his or her lifetime and to provide for an annuity equal to 50 percent of the participant's reduced annuity payable after his or her death to a beneficiary whose name shall be designated in writing to the Secretary. The annuity payable to a participant making such election shall be reduced by 10 percent of an annuity computed as provided in 3 FAM 673.2-1 and by 5 percent of an annuity so computed for each full five years the person designated is younger than the retiring participant, but such total reduction shall not exceed 40 percent. No election of a reduced annuity payable to a beneficiary shall be valid until the participant shall have satisfactorily passed a physical examination. The Department will arrange for an examination without cost to the participant to determine whether he is in good health, and will also advise him of any other evidence required. The annuity payable to a beneficiary under this regulation shall begin on the first day of the next month after the participant dies. Upon the death of the surviving beneficiary all payments shall cease and no further annuity payments authorized under this regulation shall be due or payable. An unmarried participant in good health who designates a beneficiary as a survivor will have his annuity reduced in accordance with the following schedule:

Age of Person Named in Relation to that of Retiring Participant	Reduction in Annuity of Retiring Participant (percent)
Older, same age, or less than 5 years younger.....	10
5 but less than 10 years younger...	15
10 but less than 15 years younger..	20
15 but less than 20 years younger..	25
20 but less than 25 years younger..	30
25 but less than 30 years younger..	35
30 or more years younger	40

673.2-4 Annuity Payable to Surviving Child or Children

If an annuitant dies, annuities are payable to a surviving child or children, as defined in 3 FAM 671.1-2e, as follows:

a. When Survived by Wife or Husband and Child or Children

If the annuitant is survived by a wife or husband and by a child or children, in addition to any annuity payable to the surviving wife or husband, there shall be paid to or on behalf of each child an annuity equal to the smallest of:

- (1) 40 percent of the annuitant's average basic salary, as determined under 3 FAM 673.2-1, divided by the number of children;
- (2) \$1,800, divided by the number of children; or
- (3) \$600.

b. When Survived by a Child or Children But No Wife or Husband

If the annuitant is not survived by a wife or husband, but by a child or children, there shall be paid to or on behalf of each child an annuity equal to the smallest of:

- (1) 50 percent of the annuitant's average basic salary, as determined under 3 FAM 673.2-1, divided by the number of children;
- (2) \$2,160 divided by the number of children; or
- (3) \$720.

c. Recomputation of Annuity for Child or Children

If a surviving wife or husband dies or the annuity of a child is terminated, the annuities or any remaining children shall be recomputed and paid as though such wife, husband, or child had not survived the participant. Such recomputation and annuity adjustment will become effective on the first day of the calendar month following the month in which the surviving wife or husband dies or the annuity of a child is terminated.

d. Commencement and Termination Date of Annuities

The annuity payable to a child under 3 FAM 673.2-4 shall begin on the first day of the next month after the participant dies, and such annuity or any right thereto shall be terminated on the date of death, date of marriage or on the date on which age 18 is attained, except that, if a child is incapable of self-support by reason of mental or physical disability incurred before age 18, the annuity shall be terminated only when such child dies, marries, or recovers from such disability.

673.2-5 Grant of Annuity Under Section 5 of P. L. 503, 84th Congress, as Amended by Public Law 86-612

In any case where a participant died before August 29, 1954, leaving a surviving wife who was not entitled to receive an annuity under the System and who was not receiving benefits as a widow under the Federal Employee's Compensation Act, the Secretary of State was authorized and directed to grant such surviving wife, upon application therefor, an annuity of \$2,400. Eligible widows who were not receiving the grant on September 1, 1960, but who applied for it, were paid at the rate of \$2,400 per annum beginning September 1, 1960, provided such application was received in the Department on or before September 30, 1960. All applications received after September 30, 1960, shall be paid at the rate of \$2,400 per annum from the first day of the month in which the application is received in the Department.

673.3 Benefits Payable Upon Death in Service

673.3-1 Annuities

If a participant who has at least 5 years of service credit toward retirement under the Foreign Service Retirement and Disability System, excluding military or naval service that is credited in accordance with the provisions of 3 FAM 673.4-2 and 673.5-3, dies before separation or retirement from the Service, annuities are payable as follows:

a. When Survived by a Widow or Dependent Widower

If such participant is survived by a widow or a dependent widower as defined in 3 FAM 671.1-2c and 2d such widow or dependent widower shall be entitled to an annuity equal to 50 percent of the annuity computed in accordance with the provisions of 3 FAM 673.2-1. If, at the time of his or her death, the participant had less than 20 years of creditable service, the annuity shall be computed on the assumption that the participant has had 20 years of service, but the additional service credit that may accrue to the deceased participant shall in no case exceed the difference between his or her age on the date of death and the mandatory retirement age applicable to his or her class in the Service.

b. When Survived by a Wife or Husband and a Child or Children

If such participant is survived by a wife or husband and a child or children as defined in 3 FAM 671.1-2e, each surviving child shall be entitled to an annuity computed in accordance with the provisions of 3 FAM 673.2-4a.

c. When Survived by a Child or Children But No Wife or Husband

If such a participant is not survived by a wife or husband but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with 3 FAM 673.2-4b.

d. Recomputation of Annuity for a Child or Children

If a surviving wife or husband dies before the benefit to a child or children is terminated, the annuity to each child still entitled to an annuity shall be increased to the amount which would have been payable if the participant had not been survived by a wife or a husband in accordance with 3 FAM 673.2-4b.

This is true even though the wife or husband was not in receipt of a survivor annuity at the time of his or her death. Similarly, upon the termination of the annuity to a child, regardless of whether or not there existed a surviving spouse at the time of the annuitant's death, the annuities to any remaining children will be recomputed in accordance with 3 FAM 673.2-4b as though that child had never been entitled to the benefit.

e. Commencement and Termination Dates of Annuities

Annuities payable under 3 FAM 673.3 shall commence and terminate as follows:

(1) The annuity of a widow or dependent widower of a deceased participant shall commence on the date following death of the participant and shall terminate upon death of the widow or dependent widower, or upon the dependent widower becoming capable of self-support.

(2) A child's annuity shall begin on the first day of the next calendar month after the participant dies, and shall be terminated on the date of death, marriage, or attainment of the age of 18 years, except that, if a child is incapable of self-support by reason of mental or physical disability incurred before age 18, the annuity shall be terminated only when such child dies, marries, or recovers from such disability.

673.3-2 Lump-Sum Payment

In case a participant dies and no claim for annuity is payable, his contributions to the Fund, with interest, shall be paid in a lump-sum in the prescribed order of precedence. Claim for payment shall be made on Standard Form 1055, Claim Against the United States for Amounts Due in the Case of a Deceased Creditor.

673.4 Computation of Length of Service

673.4-1 From Date of Appointment

Service of a participant shall be computed from the effective date of appointment as a Foreign Service officer, or, if appointed prior to July 1, 1924, as an officer or employee of the Diplomatic and Consular Service of the United States, or from the date he becomes a participant under the provisions of the Foreign Service Act of 1946, as amended, but all periods of separation from the Service and so much of any leaves of absence without pay as may exceed 6 months in the aggregate in any calendar year shall be excluded, except leaves of absence while receiving benefits under the Federal Employees' Compensation Act of September 7, 1916, as amended.

673.4-2 Military Service

Leaves of absence while performing active and honorable military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States are creditable for retirement purposes.

673.4-3 Service at Unhealthful Posts

Under authority delegated by section 1(f) of Executive Order 10903, the Secretary may from time to time establish a list of places which by reason of climatic or other extreme conditions are to be classified as unhealthful. Participants assigned to a post listed in 3 FAH 673.3-4 may elect to receive extra credit towards retirement in lieu of receiving the salary differential for such post. Since a participant who is a chief of mission is not eligible for salary differential, he will automatically receive extra service credit toward retirement for service at an unhealthful post. See 3 FAH 673.3-2 for electing to receive extra service credit toward retirement in lieu of salary differential. The Secretary may at any time cancel the designation of any post on the unhealthful list, but such cancellation shall not affect any credit which has accrued for service at such post prior to the date of the cancellation.

673.4-4 Service at Unhealthful Posts Prior to Becoming a Participant

A Foreign Service staff employee appointed by the Secretary or a Foreign Service Reserve officer who becomes a participant may receive extra credit for service at an unhealthful post while serving as a staff employee or Reserve officer, respectively, prior to becoming a participant if (1) he has made full contribution

to the Fund for such period of service in accordance with 3 FAM 671.3, and (2) he did not receive a salary differential while assigned to such post.

673.4-5 Computation of Service at Unhealthful Posts

In computing the extra service credit allowable for time spent at unhealthful posts, count the total amount of time spent at such posts from the date of original arrival to the date of final departure inclusive of leaves of absence spent at the post or elsewhere, but exclusive of temporary duty, detail or consultation at a post not on the unhealthful list. Any fraction of a month appearing in the final total shall be counted as an entire month. This result shall then be divided by two and the answer will represent the extra credit to which the participant is entitled.

673.5 Prior Service Credit

673.5-1 Prior Civilian Service

Civilian service in the executive, judicial and legislative branches of the Federal Government and in the District of Columbia Government prior to becoming a participant may be creditable for retirement purposes, provided the required contributions are made to the Fund for all service subsequent to July 1, 1924. No participant may obtain prior civilian service credit toward retirement under the Foreign Service Retirement and Disability System for any period of civilian service on the basis of which he is receiving or will in the future be entitled to receive any annuity under another retirement system covering civilian personnel of the Government. Participants desiring to obtain prior civilian service credit shall deposit contributions in the Fund as follows:

a. Upon Becoming a Participant by Direct Transfer

If an employee under some other Government retirement system becomes a participant in the Foreign Service Retirement and Disability System by direct transfer, such employee's total contributions and deposits, including interest accrued thereon, except voluntary contributions, shall be transferred to the Fund as of the date such employee becomes a participant. No employee whose contributions are so transferred shall be required to make contributions in addition to those transferred for periods of service for which full contributions were made to the other Government retirement fund, nor shall any refund be made to any such employee on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed by 3 FAM 671.3-1 for contributions to this retirement Fund. No credit shall be allowed for periods of service subsequent to July 1, 1924 for which a refund of contributions was made to the employee or for which no contributions were made to the other Government retirement fund. A participant may, however, obtain credit for such prior service by making application for such credit and by making a special contribution to the Fund in accordance with 3 FAM 671.3-1.

b. Upon Becoming a Participant Other Than by Direct Transfer

A person who becomes a participant in this retirement system, other than by direct transfer from some other Government retire-

ment system, may obtain credit for prior civilian service by making application in accordance with 3 FAM 673.4-1 and by making a special contribution to the Fund in accordance with 3 FAM 671.3-1. A participant may elect to purchase all of his prior civilian service or he may elect to purchase only a portion of such prior service. However, if he elects to purchase only a portion of such prior service he shall be required to purchase first the most recent service immediately preceding his becoming a participant.

673.5-2 Procedure for Making Special Contribution

Upon notification from the Department of the amount of contribution required for credit of prior civilian service claimed, a participant may liquidate the special contribution (1) by a lump-sum payment, or (2) by installments or payroll allotments of not less than \$25.00 or multiples thereof. If, at time of retirement, death, selection-out, or resignation, a participant has not completed payment for prior service claimed, credit shall be allowed only for such period or periods of service for which full contributions have been made to the Fund. Such contributions will be applied to the latest service prior to becoming a participant. Payment of special contributions shall be made as follows:

a. All remittances by personal checks for this purpose shall be made payable to the Department of State and shall be for U.S. dollars, payable at par, at a banking institution in the United States (checks drawn on foreign banking institutions are not acceptable). These remittances shall be forwarded to the Department of State (Cashier Unit, Office of Finance) and the transmitting letter or operations memorandum, subject: FINANCE, shall clearly indicate the remittance is to "purchase service credit in the Foreign Service Retirement and Disability System for (name of person to be credited)."

b. Allotments of pay for the purchase of prior service credit shall be payable to the Department of State, "for deposit in the Foreign Service Retirement and Disability Fund for purchase of prior service credit for (name of participant to be credited)." (See 4 FAM 556 for allotments for this purpose.) The disbursing officer shall forward such allotment of pay to the Department by operations memorandum, subject: FINANCE - Purchase of Service Credit for (name of person to be credited), Foreign Service Retirement and Disability Fund.

3 FAM 673.1 and he shall be given the right to make a new election of annuity benefits.

673.7 Offenses Barring Annuity Payments

The Act of September 1, 1954 (68 Stat. 1142; 5 U.S.C. 740), as amended, bars payment of annuity to employees and to their survivors where such employees are convicted of certain Federal offenses cited, or commit certain actions enumerated therein, or remain outside the United States for more than one year in order to avoid prosecution.

674 (Unassigned)

673.5-3 Prior Military Service

A participant may obtain credit for periods of active and honorable military or naval service in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States prior to becoming a participant, subject to the restrictions in section 852(e) of the Foreign Service Act of 1946, as amended. No contributions to the Fund are required in connection with such service. Any determination required as to whether service is creditable or non-creditable will be made by the Department and will be consistent, so far as practicable, with rulings of the Civil Service Commission as to creditability of similar service under the Civil Service Retirement System.

673.5-4 Option to Surrender Military Retired Pay

A participant who is in receipt of retired pay which bars credit for his military service may elect to surrender his right to future military retired pay and to have his military service added to his civilian service for the purpose of obtaining a greater benefit in the form of annuity under the Foreign Service retirement system.

673.6 Annuity of Recalled Foreign Service Officers

A retired Foreign Service officer who is recalled to the Service under the provisions of section 520(b) or reinstated or reappointed under section 831(b) of the Foreign Service Act of 1946, as amended, (see 3 FAM 125.4) shall, while so serving, be entitled in lieu of his annuity to the full salary of the class in which he is serving. During such service he shall make contributions to the Fund in accordance with 3 FAM 671.3. When such officer reverts to his retired status his annuity shall be determined anew in accordance with

675 Participation in the Civil Service Retirement System

675.1 General

675.1-1 Authority

The original Civil Service retirement law was approved May 22, 1920 and became effective for retirement purposes on August 21, 1920. The most important amendments were made by the Acts of July 3, 1926, May 29, 1930, August 4, 1939, January 24, 1942, February 28, 1948, and July 31, 1956. (N.B. The regulations contained in 3 FAM 675 through 678 are abstracted from * Federal Personnel Manual Supplements 831-1 and 990-1 * which comprise the rules and regulations prescribed by the United States Civil Service Commission under authority of the Act of July 31, 1956.)

675.1-2 Definitions

a. Act or Retirement Act. The Civil Service Retirement Act. (5 U. S. C. Sec. 2251 et seq., 70 Stat. 743).

b. Annuitant. Any former employee who meets all the requirements for title to annuity and has filed a claim for it. He is an annuitant even though final administrative action on his claim may not have been taken by the Civil Service Commission prior to his death.

c. Annuity. The annual sum payable to a former employee who has retired.

d. Annuity, Deferred. An annuity to a separated employee which is scheduled to begin when he reaches age 62.

e. Annuity, Earned. An annuity computed on the basis of the employee's actual service and "high-5" average salary (See 3 FAM 675.1-2j) and reduced for retirement before age 60 and failure to make deposit.

f. Civil Service Commission. The United States Civil Service Commission.

g. Deductions. The amounts withheld for retirement purposes from the basic salary of an employee subject to the Act.

h. Deposit. A sum of money paid into the Fund by an employee or his survivor, to cover a period of service during which deductions were not withheld from his salary.

i. Fund. The Civil Service Retirement and Disability Fund.

j. "High-5" Average Salary. The largest annual rate resulting from averaging, over any period of 5 consecutive years of creditable service, an employee's rates of basic salary in effect during such period, with each rate weighted by the time it was in effect.

k. Lump-sum Credit. Unrefunded deductions, deposits, and redeposits with interest at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter compounded annually to December 31, 1956, or to the date of separation or transfer, in the case of an employee separated or transferred to a position not within the purview of the Act before he has completed 5 years of civilian service. The lump-sum credit does not include interest if the service covered thereby aggregates one year or less, nor does it include interest for the fractional part of a month in the total service.

l. Redeposit. A sum of money paid into the Fund by an employee or his survivor to cover a period of service during which deductions were withheld but later refunded.

m. Refund. The withdrawal from the Fund by an employee of his lump-sum credit.

n. Survivor Annuitant. A person who is entitled to an annuity based on the service of a deceased employee or annuitant, and who has filed claim therefor.

675.1-3 Assistance by Department

The Department will render every assistance to the employee in completing the application for retirement by explaining in detail the types of annuity available to him, helping him to select the type best suited to his circumstances, explaining the effect of making deposit or redeposit, and, if necessary, getting a statement from the employee to accompany his application showing any unverified service in other agencies.

675.1-4 Certificate of Membership

The obligations, rights and privileges of membership in the Civil Service Retirement System are explained in the Certificate of Membership, a copy of which is given to each employee covered by the Act. Employees should preserve the certificate as a part of their valuable personal papers.

675.2 Coverage

675.2-1 Employees Covered by Retirement System

The following Foreign Service employees are covered by Civil Service retirement:

a. Chiefs of mission who are not participants in Foreign Service Retirement and Disability System (see 3 FAM 671.1-2);

b. Reserve officers appointed for a period in excess of one year;

- c. Staff employees with FSS appointments-Regular (see 3 FAM 122.6-6a);
- d. Staff employees with FSS appointments-Resident (see 3 FAM 122.7-2a);
- e. Local employees with permanent appointments (see 3 FAM 912.1-3d);
- f. Any employee in one of the categories listed in 3 FAM 675.2-2 if employment in the excluded category follows employment subject to the Act without a break in service or after a separation from the service of 3 days or less.

675.2-2 Employees Excluded from Retirement System

The following Foreign Service employees are excluded from Civil Service retirement unless employment in the excluded category follows employment subject to the Act without a break in service or after a separation from the Service of 3 days or less:

- a. Any category of Foreign Service employee serving under an appointment limited to one year or less;
- b. Staff employees with FSS - Temporary or FSS - Limited - Indefinite appointments (see 3 FAM 122.6-6b and c);
- c. Staff employees with FSS - Temporary (Resident) or FSS - Limited-Indefinite (Resident) appointments (see 3 FAM 122.7-2b and c.);
- d. Local employees with indefinite, limited, or temporary appointments (see 3 FAM 912.1-3);
- e. Consular agents (see 3 FAM 924.5);
- f. * Non-full-time employees without a pre-arranged regular tour of duty; *
- g. Employees paid on a contract or fee basis;
- h. Employees paid on a piece-work basis, except those whose work schedule provides for regular or full-time service.

675.2-3 Loss of Social Security Coverage

An employee excluded under 3 FAM 675.2-2 from the provisions of the Retirement Act, who by reason of change in type of appointment, obtains Civil Service retirement coverage has no right of election to retain social security coverage.

675.3 Election Between Retirement Annuity and Employees' Compensation

675.3-1 Injured or Disabled Employee

An employee who is disabled or injured in line of duty may be eligible for both an annuity under the Act and compensation under the Federal Employees' Compensation Act, (5 U.S.C. 751 et seq., 39 Stat. 742 et seq.), as amended. As a general rule, however, he may not receive an annuity and compensation for the same period of time. Therefore, he should apply for whichever benefit is to his advantage. If he elects to receive compensation, he should also apply for retirement upon separation from his position, although annuity payments will be suspended during the period he is receiving compensation. Only if he so applies and elects a survivor type of annuity can he provide the continuity of survivorship protection which he had under the Act as an employee. In addition, he will protect his own annuity rights should his compensation be discontinued. If he does not wish to apply for retirement he will be eligible to obtain a refund of his lump-sum credit. However, if he applies for and receives a refund he will lose his right to the annuity.

675.3-2 Exceptions to Receipt of Annuity and Compensation at Same Time

The general bar against receipt of annuity and compensation at the same time is subject to the following exceptions:

- a. An employee receiving annuity may also draw scheduled disability payments or be furnished medical services under the Federal Employees' Compensation Act.
- b. An employee receiving compensation benefits on account of the death of another person may also receive an annuity under the Act on the basis of his own service.
- c. The right of any person entitled to an annuity under the Act is not affected because he has received a lump-sum benefit under the Federal Employees' Compensation Act, unless his annuity is payable on account of the same disability for which compensation has been paid. In the latter case, it is necessary for the annuitant to refund to the Bureau of Employees' Compensation, Department of Labor, as much of such compensation as has been paid for any period extending beyond the effective date of the annuity.

675.3-4 Employee Compensated by Responsible Party

A person eligible for both retirement annuity and benefits under the Federal Employees' Compensation Act, whose compensation is suspended because he has received financial settlement from the party directly responsible for the injury, may, since he is not in receipt of compensation, be paid an annuity during the suspension period.

675.4 Salary Deductions

Deductions from the basic salaries of employees in the Department subject to the Retirement Act have been and are at the following percentage rates:

- a. 2-1/2% from August 1, 1920 to June 30, 1926;
- b. 3-1/2% from July 1, 1926 to June 30, 1942;
- c. 5% from July 1, 1942 to July 10, 1948;
- d. 6% from July 11, 1948 to October 6, 1956; and
- e. 6-1/2% from October 7, 1956 to the present.

675.5 Voluntary Contributions**675.5-1 Additional Annuity Purchasable**

An employee who wishes to obtain a larger retirement annuity than is otherwise provided may make voluntary contributions to the Fund to purchase additional annuity, subject to the following restrictions. If he has had creditable civilian service for which no deposit or redeposit has been made, he will be eligible to make voluntary contributions only upon completing the deposit or redeposit. Should he have received at any time a refund of voluntary contributions with interest, he may not make further voluntary contributions unless he has again been employed within the purview of the Act after a separation of more than 3 calendar days. Each \$100 in an employee's voluntary contributions account at the time of his retirement will provide additional yearly life annuity in the amount of \$7, plus 20 cents for each full year he is over age 55 at that time.

675.5-2 Procedure

Voluntary contributions may be made only in amounts of \$25 or in multiples thereof, and total contributions may not exceed 10 percent of the aggregate basic salary the employee has received for civilian service since August 1, 1920. An employee who desires to make volun-

tary contributions should fill out Standard Form 2804, Application to Make Voluntary Contributions, and file it direct with the Civil Service Commission (not with the Department or post disbursing officer). The Commission will issue instructions for making contributions at the time the election is accepted.

675.6 Refund of Retirement Deductions**675.6-1 Lump-Sum Credit Returned Upon Transfer or Separation**

Regardless of his length of service, an employee who is separated or transferred to a position in which he is not under the Act, may receive a refund of his lump-sum credit, as defined in 3 FAM 675.1-2k, provided his separation or transfer occurs and SF-2802, Application for Refund, is filed with the Civil Service Commission at least 31 days before the commencing date of any annuity for which he may be eligible. (See 1 FSM V 478.11.) However, the receipt of the lump-sum credit voids all annuity rights unless and until the individual is reemployed in a position subject to the Act. The period covered by the refund can not be credited for annuity computation purposes until redeposit has been made.

675.6-2 Lump-Sum Credit Left in Fund

Any employee who is separated from the service may leave his lump-sum credit in the fund. There is no advantage in doing so for an employee who has less than 5 years of creditable civilian service if he does not contemplate returning to the Government service. However, if an employee who has title to a deferred annuity at age 62 leaves his lump-sum credit in the Fund, the value of the deferred annuity in most cases will exceed the amount of the lump-sum credit, and upon attaining age 62 and filing claim for retirement annuity, a survivor type annuity may be elected. Leaving the lump-sum credit in the Fund at time of separation does not preclude a refund at a later date, provided SF-2802, Application for Refund, is filed with the Civil Service Commission at least 31 days before the commencing date of the annuity. If the former employee dies before attaining the age 62, the lump-sum credit is payable as a death benefit.

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675.6-3 Minimum Civilian Service Requirement for Annuity

If a separated employee has completed less than one year of civilian service under the Act within the 2-year period immediately preceding his last separation, such separation and service do not accord him any title to an annuity, and he may receive a refund covering this period without losing any annuity right based on a prior separation. If he has an annuity right based on a prior separation, and desires a refund covering only the latter service, he should make a definite statement to this effect on his Application for Refund; otherwise he will be paid his entire lump-sum credit, resulting in the forfeiture of all annuity rights.

675.6-4 Voluntary Contributions

An employee who is separated from the service before becoming eligible for an immediate or deferred annuity, or who is transferred to a position in which he is not subject to the Act, may withdraw his voluntary contributions with interest at 3 percent compounded annually. As a general rule no interest is allowed beyond the date of an employee's separation from the service, or date of transfer to a position in which he is not subject to the Act. However, where an employee is separated with title to a future annuity, and does not withdraw his voluntary contributions, interest is allowed to the beginning date of the annuity or until the date of death, whichever is earlier. An employee may withdraw his voluntary contributions with interest (1) before separation from service, or (2) after separation but before receipt of any additional annuity based thereon. Should an employee die in service or after separation but before retirement, the voluntary contributions with interest will be payable to the person or persons entitled in the order of precedence indicated in 3 FAM 677.6-2. These payments after separation or death will include money specially credited as voluntary contributions in cases of employees who performed service in excess of that required for the 80 percent maximum. (See 3 FAM 677.3-4.) An employee or separated employee may withdraw his voluntary contributions at any time before receipt of additional annuity based thereon by filing with the U. S. Civil Service Commission Standard Form 2802 after altering its title to read "Application for Refund of Voluntary Contributions Only". If a separated employee who has made voluntary contributions applies for a refund of his lump-sum credit at least 31 days before the commencing date of any annuity for which he may be eligible, both the lump-sum credit and his voluntary contributions will be paid. However, if a separated employee wishes to preserve any title

he may have to a deferred annuity, he may receive a refund of only his voluntary contributions by altering and filing Standard Form 2802 as indicated above.

676 Types of Retirement**676.1 Age Retirement****676.1-1 Conditions for Mandatory Separation**

An employee under the Act shall be separated when he meets all the following minimum conditions:

- a. He has attained age 70;
- b. He has completed 15 years of creditable service, including 5 years of civilian service; and
- c. He has been employed under the Act for at least one year within the 2-year period immediately preceding his separation.

676.1-2 Date of Separation

The Department will notify the employee in writing at least 60 days in advance of the effective date of mandatory separation. Separation will be at the end of the month in which the employee first meets all of the conditions, provided he has had the required 60-day notice. He may not be retained in service beyond such separation date for the purpose of granting him sick leave. Should the Department fail, through error, to give timely notification, the employee may not be separated without his consent until the end of the month in which the 60-day notice requirement has been met. In such case, the date the notice was given shall be recorded in the "Remarks" column on Standard Form 2806.

676.1-3 Exemption from Mandatory Separation

The President is authorized to waive the mandatory separation requirement in any particular case when, in his judgment, the public interest requires the retention of an employee in the service. The President has delegated this authority to the Civil Service Commission as regards employees other than Presidential appointees. The Department's recommendation for exemption shall be forwarded to the Commission at least 30 days in advance of the mandatory separation date. Such recommendation shall contain (1) a statement that the employee is willing to remain in service, (2) a recital of facts tending to establish that his retention would be in the public interest, (3) the period for which the exemption is desired, which period may not exceed one year, and (4) the reasons why the simpler method of retiring the employee and immediately reemploying him is not being used. Such recommendation shall be accompanied by a medical certificate showing the employee's physical fitness to perform his work. No exemption will be approved by the Commission after the automatic separation date applicable to the employee.

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676.2 Optional Retirement

(Special provisions regarding optional retirement for law-enforcement employees are not included here but may be obtained from the Department upon request.)

676.2-1 Eligibility

An employee under the Act is eligible for optional retirement on an immediate annuity if:

a. He has been employed under the Act for at least one year within the 2-year period immediately preceding the separation on which the annuity is based; and

b. He meets one of the following age and service conditions:

(1) Attainment of age 62 and completion of 5 years of civilian service; or

(2) Attainment of age 60 and completion of 30 years of creditable service, including 5 years of civilian service; or

(3) Attainment of age 55 and completion of 30 years of creditable service, including 5 years of civilian service.

If the retiring employee is under age 60, the basic life annuity rate is reduced by one-twelfth of 1 percent for each full month (1 percent a year) that he is under age 60. The annuity rate so determined will not be increased when the annuitant reaches age 60.

676.2-2 Filing Application

When an employee wishes to apply for optional retirement, he shall fill out Standard Form 2801, Application for Retirement, and submit it to the principal or administrative officer for forwarding to the Department. The responsible officer at the post shall render every assistance to the employee in completing his application by explaining in detail the types of annuity available to him, helping to select the type best suited to his circumstances, explaining the effect of making deposit or redeposit, and obtaining a statement from the employee to accompany his application showing any unverified prior service with other agencies. Any questions which cannot be answered by the post should be referred to the Department.

676.3 Disability Retirement**676.3-1 Eligibility**

An employee under the Act shall meet all of the following conditions to be eligible for disability retirement:

a. He shall have completed at least 5 years of civilian service.

b. He shall, while employed subject to the Act, have become totally disabled for useful and efficient service in his position or any other position of the same grade or class.

c. The disease or injury which caused the disability shall not be the result of vicious habits, intemperance, or willful misconduct on his part within the 5-year period immediately prior to becoming disabled.

d. The application for disability retirement shall be filed with the Civil Service Commission as specified in the time limit prescribed in 3 FAM 676.3-2.

The general requirement that an employee shall have completed, within the 2-year period preceding his separation from service, at least one year of civilian service to be eligible for annuity under the Act is not applicable in the case of an employee retiring for disability.

676.3-2 Filing Application

The employee himself shall make application for disability retirement, except in the following cases:

a. If he refuses to make the application, the Office of Personnel may make it.

b. If he is mentally incompetent, his guardian, his relative, or some other interested person may make it on his behalf.

If application is made by the Office of Personnel, it shall be filed with the Civil Service Commission before the employee is separated from the service. If it is made by the employee, his guardian, or some other interested person, it shall be made before separation from the service or within one year thereafter. This time limit also applies to separated employees who elect to receive

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compensation under the Federal Employees' Compensation Act. It cannot be waived, regardless of the reason for failure to execute the application on time, except for an employee who was mentally incompetent at the time of separation or within one year thereafter. In such a case, the application may be accepted by the Commission if filed within one year from the date the person is restored to competency or a guardian is appointed, whichever is the earlier.

676.3-3 Minimum Guaranteed Annuity

A minimum basic annuity payable in the case of an employee retiring on account of disability will be allowed, if it is greater than the basic annuity computed under the general formula (see 3 FAM 677.3-2). The minimum basic annuity amounts to the LESSOR OF:

- (1) 40 percent of his "high-5" average salary (see 3 FAM 675.1-2j); or (2) an annuity computed under the general formula after increasing the length of actual service by the length of time elapsing between the date of separation and the date on which the employee would attain age 60. Because the guaranteed minimum contains no provision for projection of service past age 60, the disability annuity rate of an employee who is age 60 or over is always computed by using his actual service in the general formula, regardless of whether the result is greater or less than 40 percent of his "high-5" average salary (see 3 FAM 677.1-3).

676.3-4 Medical Examination

Unless there is other evidence acceptable to the Civil Service Commission, no employee may retire for disability until he has been examined by a Federal medical officer or other physician designated by the Commission.

676.3-5 Statement of Attending Physician

A certificate of the employee's attending physician is required in every case of disability retirement unless the Office of Personnel initiates the application for disability retirement. This statement should be obtained by the employee, preferably on Standard Form 2801-B. If the employee does not wish to use SF 2801-B he may obtain a statement on the physician's stationery. Such a statement should describe fully all physical signs of existing disease or injury and shall state the physician's opinion regarding the degree to which the applicant is disabled for useful and efficient service. He should give his opinion of the date on which disability began and state whether in his

opinion the disease is due to vicious habits, intemperance, or willful misconduct. If the physician prefers, he may furnish his statement direct to the Office of Personnel in a sealed envelope marked with the applicant's name and the words "Disability Retirement-Privileged-Private," in which case it will be forwarded unopened to the Medical Officer of the appropriate office of the Civil Service Commission with other supporting documents. As a convenience, where feasible to do so, the Office of Personnel will furnish the applicant for his doctor's use (1) an envelope marked as indicated, and (2) a second envelope pre-addressed to the Department, in which the first envelope containing the physician's statement may be enclosed.

676.3-6 Statement of Employee's Superior Officer

A statement on SF 2801-A from the employee's superior officer is required in every case of disability retirement.

676.3-7 Status Pending Action on Application

The employee's status as an employee is not affected by an application by the Department for his disability retirement. Pending decision on the application, his employment status is determined under the normal rules relating to employees. As a matter of policy, the Civil Service Commission believes it preferable that the employment status not be terminated pending the decision on the application for disability retirement.

676.3-8 Separation of Employee

Upon receipt of notification from the Civil Service Commission that disability retirement has been allowed, the Office of Personnel will, in its discretion, take one of the following actions:

- a. If the employee is then on annual leave or on leave without pay, it will separate him as of the date it receives the notice.
- b. If the employee is then on sick leave, it will separate him as of the date the leave expires.
- c. If the employee is still at work, it will grant him any sick leave to which he is entitled and for which he may apply and separate him as of the date the leave expires.
- d. If separation on a particular date would cause a forfeiture of any annual leave which could not be included in a lump sum payment, it will grant him annual leave and separate him as of the date the leave which would otherwise be forfeited expires.

676.3-9 Examination and Recovery of Disabled Annuitant

Unless the Commission determines that his disability is permanent in character, a disability annuitant must undergo periodic medical examinations until he reaches age 60. The Commission arranges for examinations at no expense to the annuitant. If an annuitant fails to submit to a required medical examination, payment of his annuity is suspended until continuance of his disability is established satisfactorily. A finding of permanent disability eliminates the necessity for examination unless circumstances warrant it. If, before reaching age 60, a disability annuitant recovers, or is restored to earning capacity, his annuity payments will be continued temporarily to afford him an opportunity to seek reemployment.

The annuity payments will be discontinued on whichever of the following dates is earliest:

a. The end of the day before his reemployment by the Government.

b. The expiration of one year from the date of medical examination showing recovery.

c. The expiration of one year from the end of the calendar year in which earning capacity is restored.

Earning capacity shall be deemed restored if, in each of 2 succeeding calendar years, the income of the annuitant from wages or self-employment, or both, shall equal at least 80 percent of the current rate of compensation of the position occupied immediately prior to retirement. If an annuitant who is found to be recovered or restored to earning capacity is not reemployed in the Government in a position under the Act he shall be considered, except for service credit purposes, as involuntarily separated from the service as of the date his annuity was discontinued. He shall be entitled to discontinued-service retirement or deferred retirement as applicable in his particular case,* or he may be eligible for reinstatement of his disability annuity under the following conditions: If, based on a current medical examination, the Commission determines that a "recovered" annuitant has, before reaching age 62, again become totally disabled due to recurrence of the disability for which originally retired, his disability annuity (same type and rate) will be reinstated from the date of such medical examination. If a "restored" annuitant has not medically recovered from the disability for which retired and establishes to the Commission's satisfaction that his income from wages and self-employment in any calendar year before reaching age 62 is less than 80 percent of the salary rate attaching to

the position from which he retired, his disability annuity (same type and rate) will be reinstated from the first of the next following year. In case he has been allowed discontinued-service annuity in the meantime, his reinstated disability annuity will be substituted for it, unless he elects to retain the former benefit.*

676.4 Discontinued-Service Retirement676.4-1 Eligibility

An employee under the Act who is involuntarily separated from the service is entitled to an immediate annuity if:

a. He has been employed under the Act for at least one year within the 2-year period immediately preceding the separation on which the annuity is based, and

b. He meets either of the following requirements:

(1) Attainment of age 50 and completion of 20 years of creditable service, including 5 years of civilian service, or

(2) Regardless of age, if he has completed 25 years of creditable service, including 5 years of civilian service.

676.4-2 Reduced Annuity for Retirement Before Age 60

If the retiring employee is under age 60 the basic life annuity rate is reduced by one-twelfth of 1 percent for each full month (1 percent a year) that he is under age 60, but not under age 55, and one-sixth of 1 percent for any full month (2 percent a year) that he is under age 55. The annuity rate so determined will not be increased when the annuitant reaches the regular optional retirement age (60 or 62) for his group.

676.4-3 Definition of Involuntary Separation

The term "involuntary separation" means any separation against the will and without the consent of the employee, other than for cause on charges of misconduct or delinquency. Examples are: reduction in force; lack of funds; inefficiency (unless due to the employee's misconduct); disability (provided the separation action is initiated by the Department); or separation during probation because of failure to qualify.

676.4-4 Effect of Resignation During Involuntary Separation

If an employee, after receiving separation notice because of abolishment of a position or liquidation of an office, or separation notice which is based on selection from an approved retention register in a reduction in force, resigns his position prior to the effective date of the scheduled separation, the separation is considered involuntary for retirement purposes. Any such employee offered, in lieu of separation, a demotion or reassignment to any other position, who resigns rather than accept such demotion or reassignment will be considered for retirement purposes as involuntarily separated from the service.

676.4-5 Effect of Notice of Separation

It is not necessary in this connection that an actual reduction in force be effected. A notice of separation from the position occupied is sufficient, and it is not necessary that such notice be an actual directive of separation from the Department. Separation from the position because of its abolishment in itself is involuntary and, if the employee chooses to resign in lieu of demotion or reassignment, the separation is involuntary for retirement purposes.

676.5 Deferred Retirement

An employee who is separated from the service for any reason or transferred to a position in which he is not under the Act before meeting the requirements for an immediate annuity is entitled to a deferred annuity to commence at age 62 if:

- a. He has completed at least 5 years of civilian service; and
- b. He has been employed under the Act for at least one year within the 2-year period immediately preceding his separation or transfer.

A separated employee who is eligible for a deferred annuity should file his application for retirement no earlier than 3 months before he attains age 62. At that time he may obtain the proper form of application from the Department or from the central office or any regional office of the Civil Service Commission.

677 Annuities and Lump-Sum Benefits

677.1 Types of Annuities

677.1-1 Life Annuity

This type of annuity is available to all retiring employees. It provides annuity payments during the life of the retiring employee only.

677.1-2 Reduced Annuity with Benefit to Widow or Widower

This type of annuity is available to each retiring employee who is married on the commencing date of his annuity. It provides annuity payments, at a reduced rate, during the life of the retiring employee and, upon his death, a survivor annuity will be payable to the designated wife or husband. The survivor annuity to the widow or widower will begin on the day after the retired employee's death. It will terminate on the last day of the month preceding the one in which the widow or widower remarries or dies. The annuity of the retiring employee and of the survivor annuitant are computed as shown in 3 FAM 677.3-5c(1).

677.1-3 Reduced Annuity with Benefit to Person with Insurable Interest

This type of annuity is available only to unmarried employees (including widowed or divorced) who are retiring in good health. It provides annuity payments, at a reduced rate, during the life of the retiring employee and, upon his death, an annuity will be payable to the person designated. The person designated must have an insurable interest in the retiring employee. An insurable interest will be presumed to exist if the person named has a reasonable expectancy of pecuniary benefit in the continuance of the life of the employee. The

survivor annuity to the person named will begin on the day after the date on which the annuitant's death occurs. It will terminate on the last day of the month preceding the one in which the survivor dies. The annuity of the retiring employee and of the survivor annuitant are computed as shown in 3 FAM 677.3-5c(2).

677.1-4 Election of Type of Annuity

The election of the type of annuity desired by the retiring employee shall be indicated by him on his Application for Retirement, SF-2801, at the time of retirement. * For a married employee, the annuity with survivor benefit to widow or widower is automatic unless he requests, in writing, an annuity without survivor benefit. * If an application for an employee's disability retirement is filed by the Office of Personnel the question on the application pertaining to the type of annuity will not be completed. No change in the type of annuity selected will be permitted after a claim has been allowed. Should the person named to receive a survivor annuity die before the annuitant, the retired employee may not change his election or substitute another person, nor will the rate of annuity be increased. The methods of computing annuities are described in 3 FAM 677.3. Unless the retiring employee indicates to the contrary in a note attached to his application for retirement, his election as to the type of basic annuity desired will also apply to the additional annuity purchased with his voluntary contributions. The Office of Personnel will advise a retiring employee of the approximate amount of benefits payable under each type of annuity available to him. If an approximation cannot be made, or does not suffice for the purpose of an election, the employee should so indicate on his application. Where this is done, the Civil Service Commission will furnish him with the information he requires, and delay allowance of his claim to give him an opportunity to make a final decision.

677.1-5 Survivor Annuity by Operation of Law

Regardless of the type of annuity elected at the time of retirement, a surviving dependent child of a deceased annuitant is entitled to a survivor annuity if the child meets the requirements set forth in 3 FAM 677.5-1d, e or f.

677.2 Computation of Length of Service

677.2-1 Creditable Civilian Service

Credit is given for civilian service in the executive, judicial, and legislative branches of the Federal Government and in the District of Columbia government. The service may be performed at different times; in one or more departments, independent offices, or branches of the Government; and either before or after the employee acquired a retirement status, but before the date of separation upon which title to annuity is based. The type of appointment is immaterial, provided the employee is subject to the Act at the time such service is credited. To be considered a Federal employee, a person shall be:

- a. Engaged in the performance of Federal functions under authority of an act of Congress or an Executive order; and
- b. Appointed or employed by a Federal officer in his official capacity as such; and
- c. Under the supervision and direction of a Federal officer.

With rare exceptions, service shall have been compensated by salary or wages to be creditable for retirement purposes. In some instances, full-time credit is not allowed, e.g., when an employee is serving on a "when actually employed" (WAE) basis or when he has been on leave without pay (LWOP) in excess of 6 months. Any questions or doubts regarding creditability of service should be referred to the Department for determination.

677.2-2 Amount of Civilian Service Creditable

Credit is granted for all leave with pay, also for all leave of absence without pay (including furlough), which does not exceed 6 months in the aggregate in any calendar year. However, an employee serving with the armed forces who is carried, or presumed to be carried, on the rolls of an agency in a furlough or LWOP status is entitled to credit for the entire period of his leave of absence while performing military service up to December 31, 1956, or until completion of 5 years of such military service, whichever occurs later. If an employee is receiving benefits under the Federal Employees' Compensation Act, credit is given for the entire period if he is carried on the rolls of his agency in a LWOP status. The amount of creditable service may be computed as follows:

a. When Actually Employed Service

(1) Without Regular Tour of Duty. Where an employee served on a when-actually-employed basis without a regular tour of duty, only the actual periods of such service may be credited. Unless a different work year is shown, 260 days constitute one year after June 30, 1945, for when-actually-employed service without a regular tour of duty. Similarly, 313 days constituted one year of service prior to July 1, 1945. Credit for service under such when-actually-employed appointment is computed by considering the number of days on which the employee worked in relation to the established work year. Thus if the established work year is 260 days and the employee worked 130 days he will be allowed credit for exactly 6 months service. In the case of an employee who is paid on an hourly basis, if the number of days on which he actually worked cannot be ascertained and only the total number of hours worked is known, each 8 hours constitute one day's service. For example, the completion of 1,040 hours in a calendar year will accord credit for exactly 6 months. If a lesser number of hours was prescribed as a workday, such lesser number of hours prescribed constitutes one day's service. Care should be taken to see that the service credited does not exceed the calendar time for the period involved. For example, the employee working on more than 260 days (or more than 2,080 hours) in a calendar year can be credited with only one year. Where the number of days on which he worked can be ascertained, a day on which he worked more than 8 hours will be reported as one day.

(2) With Regular Tour of Duty. Where an employee serving on a WAE basis is assigned a regular tour of duty administratively determined in advance, full time credit is allowed as explained under paragraph f regarding part-time employees.

b. Substitute Postal Employees

Such employees, provided they are subject to call, are given full credit for the time from the date of their original appointment.

c. Temporary Christmas Postal Employees.

For temporary Christmas postal employment performed before January 1, 1955, full credit is given, as in the case of other substitute postal employees, from appointment date to date of separation where the record shows such dates. Should there be available only a payroll record showing number of hours worked, the service will be computed on a when-actually-employed basis, with each 8 hours constituting a day's service, the total not to exceed the calendar time of the payroll

period or periods involved. No credit is allowed for such service on and after January 1, 1955, when these employees are subject to the Social Security Act.

d. Breaks in Service

Separation of only 1, 2, or 3 calendar days will not be deducted in computing total creditable service. However, no credit is allowed for any period of separation which totals more than 3 calendar days.

e. Periods for Which Refunds Have Been Made

Service under the Act for which deductions have been refunded may be included in length of service for annuity computation if redeposited in the Fund with interest. Otherwise, such service is only used in establishing title to annuity computation of "high-five" average salary, and the length of service for mandatory separation.

f. Service for Which Retirement Deductions Have Not Been Made

Even though retirement deductions were not made for a period of service, credit may be given without deposit to cover such service. However, if deposit is not made, the annuity payable is subject to reduction as outlined under 3 FAM 677.4.

g. Part-time Employees

A part-time employee who is on a regular tour of duty administratively determined in advance (such as a person required to work 4 hours a day, 5 days a week), and who performs such duty, is entitled to full credit for all time elapsing between date of appointment and date of separation. His average salary is computed on the basic salary actually paid for his part-time service. If no regular tour of duty is prescribed, credit will be allowed as in other when-actually-employed cases.

h. Terminal Leave

A lump-sum payment covering accrued and accumulated leave is not considered as salary or compensation for retirement purposes, and no credit is allowed for the period covered by the payment.

i. Fractional Part of a Month in Total Service

In computing the total creditable service of an employee, the fractional part of a month in the aggregate service is eliminated.

677.2-3 Creditable Military Service

Honorable active military service performed prior to separation from a position under the Act is creditable, with the following exceptions:

a. No credit is given for any military service to an employee who receives military retired pay unless the retired pay is awarded:

(1) On account of a service-connected disability incurred in combat with an enemy of the United States; or

(2) On account of a service-connected disability caused by an instrument of war and incurred in line of duty; or

(3) Under the provisions of Chapter 67, Title 10, United States Code.

b. Periods of military service performed after December 31, 1956, unless covered by military leave with pay from a civilian position (i. e., training periods), will be excluded in computing an annuity if, at the time of computation, the employee or his survivor are, or upon proper application would be, entitled to monthly old-age or survivor benefits under section 202 of the Social Security Act (not disability benefits) based on any wage wages or self-employment income of the employee. If credit is allowed for the military service at the time of computation, the annuity will be recomputed and the military service excluded if the individual later becomes entitled to the social security benefit. The effective date of the exclusion in such cases will be the first of the month in which the individual becomes entitled to such social security benefits.

Credit is limited to active service in the Army, Navy, Air Force, Marine Corps, Coast Guard, and, after June 30, 1960, in the Regular Corps or Reserve Corps of the Public Health Service of the United States,* and, after June 30, 1961, as a commissioned officer of the Coast and Geodetic Survey. Non-duty time while in the reserve components of these services is not creditable. A reservist, other than a member of the National Guard of the United States or Air National Guard, ordered to active duty, active duty for training, or annual active duty for training, will receive credit for such duty period. No credit is given for inactive duty training, that is, scheduled weekly or monthly assemblies or drills.* Service as Midshipman at the U.S. Naval Academy and as Cadet, U.S. Military Academy, U.S. Air Force Academy, or U.S. Coast Guard Academy constitutes military service for credit purposes. *The same is true regarding service performed while in training for a commission under the provisions of section 54 (but not other sections) of the National Defense Act of 1916, as amended. Service under the V-12 Naval Reserve Training Program is active service in the Navy and creditable. National Guard service is creditable only during periods when the organization (or a unit thereof) is actually mustered into or activated in the U.S. Army or Air Force. Accordingly, members of the National Guard of the U.S. or the Air National Guard receive credit only when called into active duty with

the U.S. Army or U.S. Air Force.* Credit is granted only for those periods of active military service terminated by honorable discharge or by transfer to inactive reserves under honorable conditions. Any period of service not terminated honorably may not be credited. Under no circumstances will credit be allowed under the Act for both civilian and military service covering the same period of time. The period of creditable service cannot exceed the actual calendar time in any case. The employee receives credit for honorable active military service without contributions to the Fund, and no deposit of any type may be made for such service.

677.2-4 Military Furlough or Separation

A civilian employee subject to the Act who has left or leaves his position to enter the armed forces of the United States during the period of any war or national emergency shall not be considered, for retirement purposes, as separated from his civilian position but shall be considered to be on military furlough unless he applies for and receives a refund of his lump-sum credit. However, he shall not be considered as retaining his civilian position beyond December 31, 1956, or the expiration of 5 years of military furlough while in the armed forces, whichever is later. This is true whether the action is recorded by the employing office as furlough or as a separation. The military furlough period begins on the day following the employee's last day in pay status. Pay status includes duty, sick leave, current annual leave (not lump-sum leave payment) and military leave with pay. A period of military furlough is creditable as civilian service. During the life of the furlough, the employee is entitled to retention and protection of the retirement rights he had upon entering the armed forces plus accrual of additional credit as if he had continued in his civilian position. An employee who leaves his civilian position to enter the armed forces, but fails to return to such position after release from active duty will be considered for retirement purposes to have been voluntarily separated from the civilian service at the expiration of 5 years of military furlough or as of the date of release from active duty, whichever occurs first. If he was in the military service on December 31, 1956, and had completed 5 years of military service on or before that date, he will be considered to have been voluntarily separated on December 31, 1956. If an employee entering the armed forces is separated by the Department, or resigns while in a furlough status he may receive a refund of his lump-sum credit at any time in accordance with 3 FAM 675.6. Payment of the

refund, however, makes his separation from the civilian service absolute for retirement purposes thereby depriving him and his survivors of retirement coverage unless and until he returns to duty following his military service. Any refund so paid may, upon reemployment, be redeposited in the Fund. If an employee is carried in a furlough or LWOP status during a period of hospitalization following discharge from creditable military service, or is restored thereafter under statutory restoration rights, retirement credit will be allowed for so much of the period of hospitalization as does not exceed 6 months in any calendar year and does not extend beyond the maximum furlough period allowed.

677.3 Computation of Annuities

677.3-1 "High-5" Average Salary

The "high-5" average salary is used in computing an annuity as shown in the following example:

Rate in Effect From	Length of Time Rate in Effect			Annual Basic Rate	Total Basic Salary Paid
	Yrs.	Mo.	Days		
1/1/52 to 12/31/52	1	0	0 x	\$3,000	\$3,000
1/1/53 to 6/30/54	1	6	0 x	3,500	5,250
7/1/54 to 9/30/54	0	3	0 x	4,000	1,000
10/1/54 to 12/31/56	2	3	0 x	5,000	11,250
					\$20,500

"High-5" average salary \$20,500 divided by 5 equals \$4,100. The 5-year period which the average salary is computed may start and end on whichever dates will produce the highest average salary. The 5 years of service need not be continuous, but they must consist of consecutive periods of service. Thus, 2 or more separate periods of employment may be joined, provided there is no intervening period of service to be considered.

677.3-2 General Formula

The basic annuity under the general formula is obtained as follows:

- Step 1-** Take 1-1/2% of the "high-5" average salary and multiply the result by 5 years of service;
- Step 2-** Add 1-3/4% of the "high-5" average salary multiplied by years of service between 5 and 10;
- Step 3-** Add 2% of the "high-5" average salary multiplied by all service over 10 years.

Instead of using the 1-1/2%, 1-3/4% and 2%, there may be substituted 1% of the "high-5" average salary plus \$25 for any or all these

percentages if such a substitution will produce a higher basic annuity. Regardless of length of service, the following rules apply in computing basic annuities under the general formula:

- a. If the "high-5" average salary is \$5,000 or more, the highest basic annuity will be obtained by using step 1 through 3. Example: 30 years of service, "high-5" average salary \$6,000. Because the "high-5" average salary is more than \$5,000, the highest basic annuity is obtained by using Steps 1 through 3, as follows:

1-1/2% x \$6,000 x 5 years of service..	\$450
1-3/4% x \$6,000 x 5 years of service..	525
2 percent x \$6,000 x remaining 20 years of service.....	2,400
	\$3,375

a year

- b. If the "high-5" average salary is between \$3,334 and \$4,999, the highest annuity will be obtained by substituting the 1% plus \$25 in Step 1, and then using Steps 2 and 3. Example: 20 years of service, "high-5" average salary \$4,000. Because the "high-5" average salary is between \$3,334 and \$4,999, the basic annuity is obtained by substituting the "1% plus \$25" in Step 1, and then using Steps 2 and 3, as follows:

[1% x \$4,000) plus \$25] x 5 years of service.....	\$325
1-3/4% x \$4,000 x next 5 years of service.....	350
2% x \$4,000 x remaining 10 years of service.....	800
Highest basic annuity.....	\$1,475

a year

- c. If the "high-5" average salary is between \$2,501 and \$3,333, the highest annuity will be obtained by substituting the 1% plus \$25 in Steps 1 and 2, and using Step 3. Example: 25 years of service, "high-5" average salary falls in the \$2,501 to \$3,333 range, substituting the "1% plus \$25" in Steps 1 and 2, and then using Step 3 produces the highest basic annuity. In actual practice, the highest two steps in computation are necessary if the "high-5" average salary is in this range (1% of "high-5" average salary plus \$25 multiplied by first 10 years of service; 2% of "high-5" average salary multiplied by any remaining service). However, for purposes of illustration, the computation is broken into three steps as follows:

[1% x \$3,000) plus \$25] x 5 years of service.....	\$275
[1% x \$3,000) plus \$25] x 5 next years of service.....	275
2 percent x \$3,000 remaining 15 years of service.....	900
Highest basic annuity.....	\$1,450 a year

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Exhibit 677.3-2d

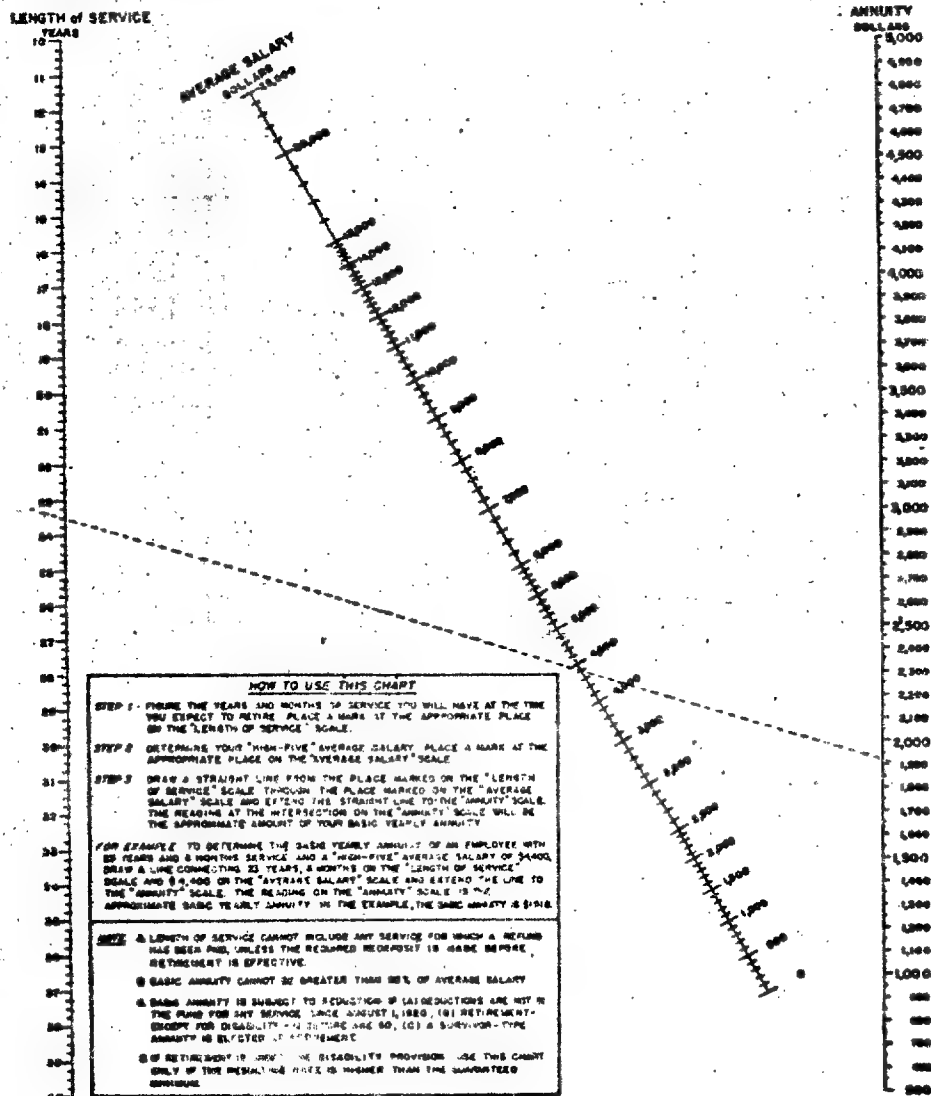
d. If the "high-5" average salary is \$2,500 or less, the highest annuity will be obtained by taking 1% of the "high-5" average salary; adding \$25, and multiplying the result by total service, eliminating Steps 1 through 3. **Example:** 20 years of service "high-5" average salary \$2,000. Because the "high-5" average salary is less than \$2,501, multiplication of the entire service by the "1% plus \$25" will produce the highest basic annuity. For purposes of illustration only, the computation is broken into three steps:

$[(1\% \times \$2,000) \text{ plus } \$25] \times 5 \text{ years of service}$ \$225
$[(1\% \times \$2,000) \text{ plus } \$25] \times \text{next 5 years of service}$ 225
$[(1\% \times \$2,000) \text{ plus } \$25] \times \text{remaining 10 years}$ 450
Highest basic annuity \$900
	a year

e. For assistance in estimating Civil Service annuities, see Exhibit below, Civil Service Annuity Chart, which has been extracted from the Federal Personnel Manual, page R-5-61.

CIVIL SERVICE ANNUITY CHART

APPLICABLE TO EMPLOYEES SEPARATED AFTER SEPTEMBER 30, 1956



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677.3-3 Guaranteed Minimum Disability Annuity

The principal of the guaranteed minimum disability annuity is set forth in 3 FAM 676.3-3. In determining disability annuity rates for employees under age 60, the following rules apply:

a. If the "high-5" average salary is \$4,839 or more, and:

(1) If the employee's actual service is at least 21 years and 11 months, use the actual service in the general formula because a computation under the guaranteed minimum will provide no advantage. Example: Age 55, 25 years of service, "high-5" average salary \$5,000. Because the employee's actual service meets the 21 years and 11 months criterion applicable if the "high-5" average salary is in this range, the highest basic annuity is computed by using actual service, as follows:

1-1/2% x \$5,000 x 5 years of service...	\$375
1-3/4% x \$5,000 x 5 years of service...	437.50
2% x \$5,000 x remaining 15 years of service.....	1,500
Highest basic annuity.....	\$2,312.50

(2) If the employee's actual service is less than 21 years and 11 months, but would, if projected to age 60, total at least that much 40% of this "high-5" average salary will produce the highest allowable basic annuity, which will be the guaranteed minimum. Example: Age 45, 10 years of service, "high-5" average salary \$5,000. Because the employee's combination of actual service and service projected to age 60 is 25 years, it meets the 21 years and 11 months criterion. Therefore, the highest allowable annuity is computed by using 40% of the "high-5" average salary, as follows: 40% x \$5,000 equals \$2,000 a year, highest allowable basic annuity.

b. If the employee's combination of actual and projected service totals less than 21 years and 11 months, use of such total service in the general formula will produce the highest allowable basic annuity, which will be the guaranteed minimum.

Example: Age 55, 15 years of service, "high-5" average salary \$5,500. Because the employee's combination of actual service and service projected to age 60 is only 20 years, it does not meet the 21 years and 11 months criterion. Therefore, the highest allowable base annuity is computed by using the total of actual and projected service in the general formula. Even though actual service and "high-5" average salary are greater than in the example above, the highest allowable annuity in this case is less because of the ages of the employees involved:

1-1/2% x \$5,500 x 5 years of service....	\$412.50
1-3/4% x \$5,500 x next 5 years....	
service.....	481.25
2% x \$5,500 x remaining 10 years.....	
of service	1,100.00
Highest allowable annuity.....	\$1,993.75
	a year

b. If the "high-5" average salary is between \$2,500 and \$4,838, the table shown in Exhibit 377.3-3b can be used as an aid in determining the basic annuity rate as follows:

(1) If the employee's actual service is equal to or greater than the service shown in Exhibit 677.3-3b for the applicable "high-5" average salary range, use the actual service in the general formula because a computation under the minimum guarantee will provide no advantage. Example: Age 55, 21 years of service, "high-5" average salary \$3,100. Because the actual service of 21 years is equal to the service shown in Exhibit 377.3-3b for the applicable \$3,062 to \$3,124 "high-5" average salary range, the highest basic annuity is computed by using the actual service in the general formula, as follows:

[1% x \$3,100) plus \$25] x 5 years of service.....	\$280
[1% x \$3,100) plus \$25] x next 5 years of service.....	280
2% x \$3,100 x remaining 11 years of service.....	682
Highest basic annuity.....	\$1,242
	a year

(2) If the employee's actual service is less than the service shown in "High-5 Average Salary Table" for the applicable "high-5" average salary range, but would, if projected to age 60, total at least that much, 40% of his "high-5" average salary will produce the highest allowable basic annuity, which will be the guaranteed minimum. Example: Age 40, 10 years of service, "high-5" average salary \$3,100. The combination of actual service and service projected to age 60 is 30 years in this example. This exceeds the criterion of 21 years shown in Exhibit 677.3-3b for the applicable \$3,124 "high-5" average salary range. Therefore, the highest allowable annuity is 40% of the "high-5" average salary: $40\% \times \$3,000$ equals \$1,240 a year, highest allowable basic annuity.

(3) If the employee's combination of actual and projected service totals less than 21 years and 11 months, use of such total service in the general formula will produce the highest allowable basic annuity, which will be the guaranteed minimum. Example: Age 50, 10 years of service, "high-5" average salary \$3,100. The combination of actual service and service projected to age 70 is 20 years. This is less than the criterion of 21 years shown in Exhibit 677.3-3b for the applicable \$3,062 to \$3,124 "high-5" average salary range. Therefore, the highest allowable annuity is computed by using the combination of actual and projected service in the general formula:

$[(1\% \times \$3,100) \text{ plus } \$25] \times 5 \text{ years of service} \dots\dots\dots$	\$280
$[(1\% \times \$3,100) \text{ plus } \$25] \times \text{next 5 years of service} \dots\dots\dots$	280
$2\% \times \$3,100 \times \text{remaining 10 years of service} \dots\dots\dots$	620
Highest allowable annuity.....	1,180
	a year

c. If the "high-5" average salary is \$2,499 or less, the disability rate is obtained as follows:

(1) Compute the employee's annuity rate under the general formula, using his actual service.

(2) Compute the employee's annuity rates under the guaranteed minimum, using (a) actual service plus projected service to age 60 in the general formula, and (b) 40% of "high-5" average salary.

"HIGH-5" AVERAGE SALARY TABLE

"High-5" Average Salary	Service	
	Years	Months
\$2,500 to \$2,542	20	1
\$2,543 to \$2,586	20	2
\$2,587 to \$2,631	20	3
\$2,632 to \$2,678	20	4
\$2,679 to \$2,727	20	5
\$2,728 to \$2,777	20	6
\$2,778 to \$2,830	20	7
\$2,831 to \$2,884	20	8
\$2,885 to \$2,941	20	9
\$2,942 to \$2,999	20	10
\$3,000 to \$3,061	20	11
\$3,062 to \$3,124	21	0
\$3,125 to \$3,191	21	1
\$3,192 to \$3,260	21	2
\$3,261 to \$3,333	21	3
\$3,334 to \$3,488	21	4
\$3,489 to \$3,658	21	5
\$3,659 to \$3,846	21	6
\$3,847 to \$4,054	21	7
\$4,055 to \$4,285	21	8
\$4,286 to \$4,545	21	9
\$4,546 to \$4,838	21	10

(3) Discard the higher annuity rate obtained under the guaranteed minimum.

(4) Compare the lower rate obtained under the guaranteed minimum with the rate obtained by using the employee's actual service in the general formula and select whichever is higher as the basic annuity.

Example: Age 40, 15 years of service, "high-5" average salary \$2,000.

Step 1 - Compute the basic annuity, using actual Service in the general formula:

$[(1\% \times \$2,000) \text{ plus } \$25] \times 15 \text{ years of service} \dots\dots\dots$ \$675 a year

Step 2 - Compute the basic annuity under the guaranteed minimum, using (a) 40% of "high-5" average salary and (b) actual plus projected service (35 years) in the general formula.

a. $40\% \times \$2,000 \dots\dots\dots$ \$800 a year
b. $[(1\% \times \$2,000) \text{ plus } \$25] \times 35 \text{ years of service} \dots\dots\dots$ 1,575 a year

Step 3 - Discard the higher annuity obtained in Step 2 (\$1,575 a year).

Step 4 - Compare the remaining annuity computed in Step 2 (\$800 a year) with the annuity computed in Step 1 (\$675 a year). Select the higher annuity (\$800 a year). Highest allowable basic annuity equals \$800 a year.

Applying the guaranteed minimum principle may result in instances where:

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(a) An employee disabled at an early age may be entitled to a higher basic annuity than an older disabled employee with more actual service and a greater "high-5" average salary.

(b) Disabled employees with identical "high-5" average salaries but different length of service may be entitled to the same basic annuities.

(c) A disabled employee may be entitled to a higher basic annuity than an employee with more service and a greater "high-5" average who is retiring at or over age 62 under a provision other than disability. Such situations result from the concept underlying the guaranteed minimum for disability annuitants, i.e., disability interrupts a career which otherwise would have extended to age 60 and basic annuity should, therefore, include credit for the time which the employee normally would have served, subject to a maximum limitation of 40% of the "high-5" average salary.

677.3-4 Limitation on Basic Annuity

The basic annuity may not exceed 80% of the employee's "high-5" average salary. If an annuity computed under the general formula exceeds this percentage, it shall be reduced to an amount equal to 80% of the "high-5" average salary before applying any of the reductions or increases explained below. On and after July 12, 1960, where an employee has performed service (excluding any he has elected to eliminate for annuity computation purposes) in excess of the years and months required to provide the 80% maximum, the retirement deductions withheld after the month in which he completed such service requirement, with 3% interest to date of retirement or death, are at separation date applied toward any deposit or redeposit due. Any balance of the money, or the total thereof if no deposit or redeposit is due, is then credited to the employee's voluntary contribution account.

677.3-5 Reductions in Annuity

Each reduction described below should be made when required in a particular case, and a reduced annuity obtained before proceeding to the next applicable deduction:

a. For Retirement Before Age 60

Except where retirement is on account of total disability, or under the special provision for law-enforcement personnel, an employee who retires before age 60 will have his annuity reduced by:

- (1) 1/12% for each full month (1% a year) he is under age 60, but not under 55; and
- (2) 1/6 of 1% for each full month (2% a year), if any, he is under age 55.

b. For Failure to Make Deposit for Non-Deduction Service

If an employee fails to make a deposit, including interest, to cover a period of civilian service for which retirement deductions were not made from his salary, his annuity rate will be reduced by 10 percent of the amount unpaid. This reduction does not apply and deposit need not be made for service prior to August 1, 1920, or for military service, or for service with the Panama Railroad Company prior to January 1, 1924.

c. For Election of Survivor Annuity

(1) To Widow or Widower. The annuity of an employee who names his wife (or husband) as survivor annuitant will be reduced.

The reduction depends on what portion of the annuity the employee elects to use as a base for the survivor's benefit. The reduction is:

- * (i) 2-1/2% of that portion up to \$3,600 elected as a base for the survivor benefit, plus
- (ii) 10% of that portion over \$3,600 elected as a base for the survivor benefit.

For example, a retiring employee who is entitled to a life annuity of \$4,000 may designate his wife to receive a survivor annuity based on his entire annuity. The life annuity will be reduced by 2-1/2% of the first \$3,600 (or \$90) and by 10% of the remaining \$400 (or \$40), making a total reduction of \$130. The retiring employee will receive an annuity of \$3,870. Should this employee elect to have the survivor annuity based on only \$2,000 of his annuity, the reduction will be 2-1/2% of \$2,000 (or \$50), and he will receive an annuity of \$3,950. The survivor's annuity will be 55% of all or whatever portion of the retiring employee's annuity he specifies as a base for the benefit. In the first example given above, the survivor would be entitled to an annuity of \$2,200. In the second example, she would be entitled to an annuity of \$1,100. * However, an employee who is retiring for disability and whose annuity is computed under the guaranteed minimum provision, cannot use any part of the guaranteed minimum as the base for a survivor annuity. The benefit to the designated wife (or husband) must be based on whatever portion of the "earned" basic annuity is specified by the employee. The "earned" base annuity is computed on the basis of the employee's "high-5" average salary and length of service without any projection of service to age 60.

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(2) To Person With an Insurable Interest

An unmarried employee in good health who who names a person with an insurable interest as a survivor will have his annuity reduced in accordance with the following schedule:

Age of person named in relation to that of retiring employee	Reduction in annuity payable to retiring employees (%)
Older, same age, or less than 5 years younger	10
5 but less than 10 years younger	15
10 but less than 15 years younger	20
15 but less than 20 years younger	25
20 but less than 25 years younger	30
25 but less than 30 years younger	35
30 or more years younger	40

For example, if a retiring employee is entitled to a life annuity of \$1,800 and names a person 18 years younger than himself as his survivor, the annuity to which he is otherwise entitled is reduced by 25%, thus providing him an annuity of \$1,350. The designated survivor's annuity will be *55%* of the retired employee's annuity. In this example, it would be *\$742.*

677.3-6 Increases in Annuity*a. Voluntary Contributions *

An employee's annuity may be increased by voluntary contributions, as explained in 3 FAM 675.5. If an employee elects a survivor annuity based on his voluntary contributions, the additional annuity will be reduced in the same manner as shown in the schedule in 3 FAM 677.3-5c. The survivor annuity based on the voluntary contribution account will be 50 percent of the retiring employee's additional annuity as reduced. (Increases in annuities may be given for certain Panama Canal and Alaska-Railroad Construction service. Further information will be furnished by the Department upon request.)

*b. Cost of Living Adjustments

The annuity (excluding that portion purchased by voluntary contributions) computed as explained in this section is initially increased according to the following schedule:

Annuities which Commence between	Are Increased from the Commencing date by (%)
-------------------------------------	---

Jan. 2 and Dec. 31, 1963	4
Jan. 1 and Dec. 31, 1964	3
Jan. 1 and Dec. 31, 1965	2
Jan. 1 and Dec. 31, 1966	1

Future cost-of-living adjustments in the annuities of retired employees and survivor annuitants are geared to percentage rises in nationwide living costs, as measured by the Consumer Price Index, as follows:

Beginning in January 1964, yearly changes in the nationwide cost of living will be reviewed by the Civil Service Commission. Effective April 1 of any year the Commission finds living costs have risen at least 3 percent since 1962 (or since the year before the most recent cost-of-living increase granted after 1962), annuities which commenced earlier than January 2 of the preceding year will be increased by a percentage equal to the living costs. *

677.3-7 Beginning Dates of Annuities

An immediate retirement annuity of any type begins on the day following the employee's separation, or on the day after the employee's salary ceases and he meets the service and age (or disability) requirements. A deferred annuity begins on the day after the separated employee attains age 62.

677.3-8 Adjustment and Accrual of Annuity

An annuity accrues on a daily basis, one-thirtieth of the monthly rate constituting the daily rate, with no accrual for the 31st day of any month and with the last day of a 28-day month constituting 3 days (or the last day of a 29-day month 2 days) for accrual purposes. The monthly rate is adjusted to the nearest dollar by raising 50 cents or more to the next dollar or by dropping 49 cents or less. Annuity payments are made in installments on the first business day of the month following the month or other period for which the annuity has accrued.

677.3-9 Waiver of Annuity

A person may waive his annuity or any portion thereof. Should he later wish to rescind the waiver he may do so but the annuity waived in the interim may not be paid.

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677.4 Effect of Making Deposits and Redeposits677.4-1 Deposits

The making of a deposit is purely optional. Whether an employee should make deposit is a personal matter on which no general advice can be given. Making the deposit will assure the employee and/or his survivors maximum retirement protection, and he must view the matter as he would any other investment for the benefit of himself and his family. Deposit may be made or completed after the death of the employee by a survivor who is qualified to receive annuity benefits. Employees who have had creditable service for which deductions were not made for any reason will receive credit for such service in the computation of annuity benefits without making a deposit to cover the period of service. However, if a deposit is not made by the employee or his survivor, or if installment payments are begun and not completed, the annuity otherwise payable will be reduced by an amount equal to 10 percent of the balance due and unpaid, unless the employee elects to eliminate the service entirely from credit for annuity computation purposes. The elimination of a period of service from credit is advisable only when the employee has sufficient other service to entitle him to the maximum annuity. Full credit is allowed without deposit for all service prior to August 1, 1920, for service with the Panama Railroad Company prior to January 1, 1924, and for creditable military service. Deposits will be computed on the basis of the following percentages of basic salary for the periods indicated:

2-1/2% from August 1, 1920 to June 30, 1926;
3-1/2% from July 1, 1926 to June 30, 1942;
5% from July 1, 1942 to June 30, 1948;
6% from July 1, 1948 to October 31, 1956; and
6-1/2% after October 31, 1956.

To the above is added interest computed from the midpoint of each period of service to the date of deposit or commencing date of annuity, whichever is earlier, at the rate of 4 percent to December 31, 1947, and 3 percent thereafter, compounded annually, except that no interest shall be charged for any period of separation from the service which began before October 1, 1956.

677.4-2 Redeposits

In most cases it is definitely to the employee's advantage to make a redeposit. Redeposit may be made or completed after the death of the employee by a survivor who is qualified to receive annuity benefits. If an employee has re-

ceived a refund of retirement deductions, under the Civil Service Retirement System, the Foreign Service Retirement and Disability System, or any other system for the retirement of Government employees, he or his survivor must make a redeposit to the Fund equal to the amount of refund, plus interest, before the service can be credited in the computation of annuity benefits. Interest is computed from the date of the refund to date of redeposit or commencing date of annuity, whichever is earlier (excluding any period of separation from the service which began before October 1, 1956) at the rate of 4 percent to December 31, 1947, and 3 percent thereafter, compounded annually. An employee may not apply to make a redeposit to cover only a portion of a period of service for which deductions were refunded to him. However, where installment payments on a redeposit are not completed prior to final adjudication of an application for retirement, or prior to the death of the employee before retirement, and the survivor does not complete the payments, the installment payments will be applied as follows:

a. If 2 or more periods of service are involved, the amount will be applied to the best advantage of the employee to purchase as many complete periods of service as possible.

b. If only one period of service is involved, or if installment payments are not sufficient to cover a complete period of service, the installment payments will be refunded, unless redeposit is completed at the time the claim for annuity is adjudicated.

677.5 Survivor Annuity upon Death of Employee677.5-1 Eligibility

In order to qualify for a survivor annuity, the following conditions shall be met:

a. By Employee

To qualify his widow (or her widower) and/or children for a survivor annuity, the employee shall have:

- (1) Completed at least 5 year's civilian service; and
- (2) Died while employed in a position subject to the Act.

b. By Widow

To qualify for a survivor annuity, an employee's widow shall:

- (1) Have been married to the employee for at least 2 years immediately preceding his death; or
- (2) Be the mother of a child born of the marriage with the employee.

c. By Widower

To qualify for a survivor annuity, an employee's widower shall:

- (1) Have been married to the employee for at least 2 years immediately preceding her death, or be the father of a child born of the marriage with the employee; and
- (2) At the time of the employee's death, be incapable of self-support by reason of mental or physical disability; and
- (3) Have received more than one-half his support from the employee.

To determine whether he meets the disability requirement in (2) above, a widower shall undergo a medical examination which will be arranged by the Civil Service Commission without cost to him. If he meets the disability requirement, proof of more than one-half support will also be required.

d. By Child

To qualify for a survivor annuity, the child (including a legally adopted one) of an employee who is also survived by a wife (or husband) shall:

- (1) Be under age 18;
- (2) Be unmarried; and
- (3) Have received more than one-half support from the employee.

If the employee is not survived by a wife (or husband), the child would qualify even if he did not receive more than one-half support from the employee, provided the child is under 18 and unmarried. In this connection an employee who was divorced at the time of his (or her) death is not survived by a wife (or husband).

e. By Child Incapable of Self-Support

A child who is over age 18 may be entitled to a survivor annuity if he meets the other requirements mentioned in "d" above, and, in addition, is incapable of self-support by reason of mental or physical disability which was incurred before he reached age 18. To determine whether he meets this disability requirement, a child shall undergo a physical examination which will be arranged by the Civil Service Commission without cost to the family.

f. Stepchildren and Adopted and Illegitimate Children

In order to qualify for a survivor annuity, a legally adopted child shall meet the conditions under Item "d". A stepchild or an acknowledged illegitimate child may be entitled to a survivor annuity if he meets the requirement mentioned in "d" and, in addition, had lived with the employee in a regular parent-child relationship. This and the requirement that the child shall

have received more than one-half support from the employee shall be met even though the employee is not survived by a wife or husband.

*g. Student-Children

Survivor annuity payments to a child otherwise eligible for annuity continue (or may be awarded) beyond the limit of age 18, up to age 21, if he is a student regularly pursuing a full-time course of study or training.*

677.5-2 Computation of Survivor Annuity to Widow (or Widower)

Survivor annuity to a widow (or widower) is *55* percent of an amount computed on the basis of the deceased employee's "high-5" average salary and his length of service to the date of death under the general formula used for retiring employees. No reduction will be made in the computation because the employee may have been under age 60 at time of death. In computing the survivor annuity, no credit may be allowed for the period covered by a refund, which has not been redeposited prior to the time of the employee's death. A survivor may not make a redeposit to cover such a refund. Credit will be given for non-deduction service for which the employee had not made a deposit. However, the amount of annuity earned by the employee, which is used to determine the survivor's annuity, will be reduced by 10 percent of the amount of the unpaid deposit. The survivor annuity to the widow (or widower) is payable in addition to any benefit due a child or children

677.5-3 Computation of Survivor Annuity to Child When Employee is Not Survived by Wife (or Husband)

When the employee is not survived by a wife (or husband), the yearly survivor annuity payable to each child will be whichever of the following amount is the least:

- a. 50% of the employee's "high-5" average salary divided by number of eligible children;
- b. \$2,160 divided by the number of eligible children;
- c. \$720.

677.5-4 Computation of Survivor Annuity to Child When Employee is Survived by Wife (or Husband)

When the employee is also survived by a wife (or husband), the yearly survivor annuity payable to each child will be whichever of the following amounts is the least:

- a. 40% of the employee's "high-5" average salary divided by the number of eligible children;
- b. \$1,800 divided by the number of eligible children;
- c. \$600.

The survivor annuity to a child or children is payable in addition to any benefit due a widow (or widower). Where a widow (or widower) dies before the benefit to the children is terminated, the annuity to each child still entitled will be increased to the amount which would have been payable if the employee had not been survived by a wife (or husband). This is true even though the widow (or widower) was not in receipt of a survivor annuity at the time of his (or her) death. Similarly, upon termination (for any reason) of the annuity to a child, the annuities to any remaining children will be recomputed as though the one child had never been entitled to the benefit.

677.5-5 Duration of Survivor Annuities

Annuities to the survivors of an employee begin on the day following the date on which the employee's death occurred. A survivor annuity to a widow (or widower) ends on the last day of the month preceding the one in which she (or he) remarries, dies or, in the case of a widower, becomes capable of self-support. A survivor annuity to a child ends on the last day of the month preceding the one in which he marries, dies, or becomes age 18. If a child over age 18 is receiving an annuity because he is disabled it will terminate on the last day of the month preceding the one in which he becomes capable of self-support, marries or dies. * Annuity to a student-child ends when he marries, dies, ceases to be a student, or when he becomes 21. *

677.5-6 Payment of Children's Annuities

A child's annuity will be paid to his guardian if one has been appointed by a court. If no guardian is appointed, payment will be made, at the discretion of the Civil Service Commission, to the person who has the care and custody of the child.

677.5-7 Election Between Survivor Annuity And Employee's Compensation Benefits

Except as noted in this section, survivor annuities and survivors' compensation benefits under the Federal Employees' Compensation Act are not payable concurrently if both are based on the death of the same employee. A survivor entitled to both shall elect which of the two benefits he prefers. Should all eligible sur-

vivors of a deceased employee elect to receive the compensation benefit rather than the survivor annuity, their rights to the latter will terminate. The one exception to this rule occurs where a widow (or widower) is being paid the balance of a compensation award due the deceased employee. In such a case, the widow (or widower) may receive the survivor annuity and compensation award concurrently.

677.5-8 Election Between Annuity and Social Security Benefits

Survivors who are eligible for annuity which is based in part on military service performed by the employee between September 16, 1940, and December 31, 1956, and also for social security benefits may elect to have such military service credited toward the social security benefit. However, if such an election is made, the survivors' right to annuity is terminated. In practice, the survivors should apply for both benefits, ask the Civil Service Commission and the Bureau of Old Age and Survivors' Insurance for statements showing the amount of benefit of each benefit, and then make their election as to where to credit the military service.

677.5-9 Upon Death of an Annuitant

Unless at the time of retirement an annuitant had elected a Reduced Annuity with Benefit to Widow or Widower, no survivor annuity is payable to his widow (or her widower). If the annuitant had elected a "reduced annuity with benefit to a person with insurable interest" a survivor annuity is payable to the person named by the annuitant at the time of his retirement to receive the benefit. Where a deceased annuitant is survived by children they would, regardless of the type of annuity elected at retirement, be entitled to a survivor annuity under the same conditions and in the same amounts as the children of a deceased employee.

677.6 Lump-Sum Benefits

677.6-1 When Payable

A lump-sum benefit is payable as follows:

a. Upon Employee's Death

A lump-sum benefit is payable immediately upon an employee's death if the employee:

- (1) Has less than 5 years of civilian service; or
- (2) Leaves no widow (or widower) or children entitled to a survivor annuity.

Under these conditions the benefit will consist of the employee's lump-sum credit. If an employee leaves a widow (or widower) and/or children who are entitled to survivor annuities, a lump-sum benefit is payable if the survivor's annuities terminate before they have received in annuities an amount equal to the employee's lump-sum credit. Under these conditions the benefit will consist of that portion of the employee's lump-sum credit which has not been exhausted by the annuity payments to the survivors.

b. Upon Annuitant's Death

Upon the death of an annuitant, or upon termination of annuity payments to an annuitant's survivor(s), a lump-sum benefit may be payable if the total of annuities paid to all persons entitled to them is less than the annuitant's lump-sum credit. Here also, the benefit will consist of that portion of the annuitant's lump-sum credit which has not been exhausted by the annuity payments made to the annuitant and to his survivors, if any. There will also be payable, upon the death of an annuitant, any annuity accrued from date of last payment to date of death.

677.6-2 To Whom Payable

A lump-sum benefit is payable to the person or persons entitled to it under the following order of precedence:

- a. To the beneficiary or beneficiaries designated by the employee or annuitant;
- b. If there is no designated beneficiary, to his widow (or her widower);
- c. If none of the above, to his child or children in equal shares, with the share of any deceased child distributed to the descendants of that child;
- d. If none of the above, to his parents or the survivor of them;
- e. If none of the above, to the executor or administrator of his estate;
- f. If none of the above, to his next of kin who may be entitled to it under the laws of the State in which he was domiciled at the time of death.

677.6-3 Designation of Beneficiaries

Any lump-sum benefit under the act will be paid to the person or persons entitled to it in the order of precedence shown in 3 FAM 677.6-2 unless a beneficiary is designated. A designation need be made only if the employee wishes to name some person or persons not mentioned in the order of precedence, or if he wishes to name a mentioned person in a different order or for a different share. The filing of a beneficiary designation is advisable where evidence of a valid marriage is not readily available; this would include instances in which the employee does not have and cannot easily secure a certificate of a ceremonial marriage or evidence of death or divorce dissolving a prior marriage. A designation of beneficiary is for lump-sum benefit purposes only, and does not affect the right of any person who qualifies to receive survivor annuity benefits. Survivor annuity benefits are never based on a designation of beneficiary. Such benefits are payable either by operation of law or as a result of an election made by a retiring employee. Upon request, employees shall be furnished with a blank Standard Form 2808, Designation of Beneficiary. The form contains full instructions as to completion and filing.

677.6-4 Procedure Upon Death of Employees

When an employee dies, the post shall immediately notify the Department. In case of death of a resident staff or local employee, the post shall contact the next of kin or emergency addresses and advise such person of the right to apply for death benefits under the Act. The post should also inform the next of kin what benefits may be payable and render every assistance in completing Standard Form 2800, Application for Death Benefit. Standard Form 2800 on behalf of dependent children should be filed by the guardian appointed by the court or, if no guardian has been or will be appointed, by the person having care and custody of the children. If a widow or widower is entitled to a benefit in her or his own right and also on behalf of the children, she or he should file only one application. Completed applications should be submitted by the post to the Department for forwarding to the Civil Service Commission, along with the deceased employee's Standard Form 2806, Individual Retirement Record. Every Standard Form 2800 should be accompanied by a certified copy of the death certificate issued for the employee and such other evidence as the application calls for. The Civil Service Commission determines what benefits are payable and may, depending upon the type of benefit payable and other circumstances in a particular case, request the applicant to submit additional evidence. Such a request will

normally not delay settlement.

677.6-5 Procedure Upon Death of Annuitant

When the post is informed of the death of an annuitant abroad, it should notify the Civil Service Commission (through the Department) of the death as soon as possible. The Civil Service Commission will then initiate the filing of an Application for Death Benefits and will inform interested parties of their rights.

677.7 Offenses Barring Annuity Payments

The Act of September 26, 1961 (P. L. 87-299) bars payment of annuity to employees and to their survivors where such employees are convicted of certain offenses involving the national security of the United States listed in that Act.

677.8 Loans, Indebtedness and Set-Offs**677.8-1 Loans and Private Indebtedness**

An employee or annuitant may not borrow from the Fund or assign money credited to his account as security for a loan or for any other purpose. His lump-sum credit or annuity is not subject to execution, levy, attachment, garnishment, or other legal process. The Civil Service Commission is not authorized to induce an annuitant to satisfy a claim of a private creditor, or to arrange for the collection of a private indebtedness from annuity payments.

677.8-2 Indebtedness to the United States

Money payable from the Fund may be set-off to effect recovery of any valid debt to the United States, provided that:

- a. The employee has been separated;
- b. The debt amounts to \$5 or more; and
- c. The creditor agency has exhausted all other means of recovery.

Where an individual is indebted to his employing agency the debt can usually be recovered from his salary or terminal leave payment. If an individual is indebted to an agency other than the one in which he is employed, the employing agency will usually cooperate by arranging for the employee to make payment direct to the creditor agency. It should be noted that unliquidated unearned annual and sick leave does not constitute a valid indebtedness when the employee is separated by death or retirement for disability, or when the employee is unable to return

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to duty because of disability evidence by an acceptable medical certificate. Also, under the provisions of P.L. 684, 83d Congress (the Act of August 23, 1954), no recovery need be made for illegal pay of dual compensation which has not been reported to the General Accounting Office for collection within 6 years from the last date of any period involved.

677.8-3 Availability of Funds for Set-Offs

Money payable from the Fund may be available for set-offs as follows:

a. Any annuity payment due the former employee is available. However, the debt of a deceased employee may not be recovered from annuity payable to his widow or children.

b. If the former employee has less than 5 years of civilian service, his lump-sum credit is available.

c. If the former employee has more than 5 years of civilian service, his lump-sum credit is available if and when he applies for refund. If he does not apply for refund his annuity payments will be available when he establishes eligibility for annuity.

d. Upon the death of an employee or former employee, the lump-sum credit is available for set-off.

677.8-4 Set-Off Procedure

Posts shall proceed as follows in requesting set-offs:

Standard Form 2805, Request for Recovery of Debt Due the United States, shall be completed (in triplicate) and sent to the Department immediately upon separation of the employee concerned, in order that it may be forwarded to the Civil Service Commission along with the SF 2803, Individual Retirement Record. Where a claim is filed for recovery of a salary overpayment, regardless of the reason for such overpayment, the amount of indebtedness reported on SF 2805 shall be the unliquidated balance of the gross salary overpayment, including any withholding tax, retirement deductions, and other deductions as applicable. When funds are available the Commission will make the set-off, and send to the Department a check covering the amount involved, with sufficient information thereon to allow the Department to properly apply the proceeds. The Commission will not review either the validity or the amount of the indebtedness certified by the Department. An individual who protests a set-off should be informed that he should take up the matter with the agency that requested the set-off and that he may appeal to the Comptroller General of the United States for a decision. The Civil Service Commission will not accept a request to withhold a retirement fund payment pending investigation of a possible indebtedness.

678 Appeals

An appeal may be made to the Civil Service Commission's Board of Appeals and Review from any final action of the Commission's Retirement Division affecting the rights or interests of any person or agency under the Act. The appeal shall be filed by a claimant or by his designated representative. Appeals shall be filed through the Retirement Division, Bureau of Department Operations, United States Civil Service Commission, Washington 25, D.C. Each appeal shall include the name and post office address of the appellant, his claim number, the date and substance of the action from which the appeal is taken, the full reasons for the appeal, and any documentary evidence in support thereof. Generally, appeals shall be filed within 6 months from the date the Retirement Division mailed notice to its final action. In the following cases, appeals shall be filed earlier:

a. When an agency application for the disability retirement of an employee is disallowed, the agency appeal shall be filed within 30 days from the date of receipt of notice of final action.

b. When it is found that a disability annuitant has recovered, or that his earning capacity is restored, the appeal shall be filed within 90 days from the date of notice of proposed discontinuance of annuity.

c. When claims are simultaneously contested and one is allowed and one rejected, the claimant to whom the action is adverse shall file his appeal within 60 days from the date of receipt of notice of the Civil Service Commission's action.

*d. When a former disability annuitant is denied reinstatement of his disability annuity, the appeal must be filed within 90 days from the date of final notice of the denial. *

679 Participation in the Social Security System679.1 Coverage

American employees in the following categories who are not covered under the Foreign Service or Civil Service retirement systems shall make contributions to the Social Security system for compensation earned from January 1, 1951:

- a. Temporary employees.
- b. When-actually-employed (WAE) employees.
- c. Part-time employees.
- d. Limited-indefinite appointment employees.
- e. Persons retired under the Civil Service retirement system who are reemployed on or after October 1, 1956 in a position not covered by the Civil Service Retirement Act (see 3 FAM 125.5-5).
- f. Consular agents who are citizens of the United States.

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(*) Revision

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679 SOCIAL SECURITY COVERAGE

679.1 General

Social Security coverage applies to all employees not subject to the Civil Service Retirement or the Foreign Service Acts or to another Federal retirement system except:

a. Non-citizens employed outside the boundaries of the United States, the Virgin Islands, the Commonwealth of Puerto Rico and the Territories of Guam and American Samoa, and

b. Employees hired on a temporary basis for emergency work due to fire, storm, earthquake, flood or similar emergencies. Certain short-term employees other than those indicated under item b will be subject to Social Security coverage. The appointing officer determines whether coverage under the Social Security Act applies and indicates coverage if applicable on the appointing document. For answers to questions not available in this regulation, employees should consult pamphlets such as "Your Social Security" (OASI-35) or others issued by the Social Security Administration, U.S. Department of Health, Education and Welfare, or such questions may be referred directly to the Social Security Administration.

679.2 Legal Basis and Coverage

a. Title II of the Social Security Act (Public Law 271, 74th Congress), amended by Public Law 724, 81st Congress, provides social security benefits for most Federal employees who are not subject to civil service or to any other Federal retirement system. Public Law 761, 83 Congress, further amended the provisions with reference to Federal employees.

b. The Federal Insurances Contributions Act (FICA) provides for withholding taxes from the salaries of employees subject to the Social Security Act for deposit in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

679.3 Social Security Contributions

Federal old age, survivors and disability insurance benefits are paid for by a contribution (FICA tax) based on the employee's earnings. The employee and the agency pay equal amounts of taxes to the United States Treasury Department regardless of the employee's age and even though he may be receiving Social Security benefits. The taxes are paid through payroll deductions on the first \$4800 of an employee's gross salary (including salary plus differential for overseas employees) paid in each calendar year. Under current legislation employee and the employer each pays at the rate of 2-1/2% for the year 1959; 3% for the years 1960 and 1961; 3-1/8% for the year 1962; 3-5/8% for the years 1963 through 1965; 4-1/8% for the years 1966 and 1967 and 4-5/8% for the year 1968 and thereafter. This schedule of tax rates is designed to meet the future obligations of the program and keep it on a self-supporting basis.

679.4 Eligibility for Social Security Benefits

To be eligible for Social Security Benefits an employee must have worked long enough to be "insured" (i.e., eligible for benefits) under the Social Security law. Under current legislation, an employee cannot become fully insured with less than six quarters (1-1/2 years) of work and he does not need more than 40 quarters (10 years) of coverage to be fully insured. An employee is currently insured if he has at least six quarters of coverage within three years before he dies or becomes eligible for retirement benefits. Exact definitions of the number of quarters an employee must work and how old he must be to be fully insured can be found in OASI-35.

679.5 Social Security Benefits

a. Retirement Payments (Old Age Insurance Payments)

Upon reaching the age of 62 a fully insured employee is entitled to monthly retirement payments upon the filing of an application with the Social Security Administration. However, if the employee elects receive a benefit before age 65, the benefit will be reduced. Monthly payments are also made to dependents in accordance with definitions contained in OASI-35.

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b. Survivors Insurance Payments

Monthly insurance payments may be made to members of a deceased employee's family if at the time of death the employee was insured. These payments are subject to the same earnings test as the one for retired employees section 679.4 above and OASI-35). Added eligibility qualifications are defined in OASI-35. Survivors insurance payments cannot start until an application has been filed with the nearest district office of the Social Security Administration by a member of the deceased employee's family. The application should be filled out promptly inasmuch as back payments cannot be made retroactive for more than 12 months. In addition to monthly payments, a lump-sum payment up to three times the amount of the monthly retirement benefit but not to exceed \$255.00 is made to the widower or widow of a fully or currently insured employee if he or she were living with the employee in the same household. Otherwise the lump-sum payment is payable toward burial expenses.

c. Disability Insurance Benefits

An employee is eligible for disability payments if he is unable to engage in substantial gainful activity and is under 65, provided he has 20 quarters of coverage (5 years) in the ten years before the beginning date of his disability and is fully insured. An employee who meets the requirements for disability benefits should apply to the nearest district office of the Social Security Administration. The definition of "disability" and provisions concerning the monthly disability insurance payments can be found in OASI-35.

679.6 General Provisions Regarding Benefits

a. Amount of Payments

The amount of monthly payments to which an employee and his dependents and survivors are entitled depends on his average earnings in covered employment and self-employment up to the time he dies, is disabled or reaches retirement age or up to the time he actually retires, whichever is later. The amounts of these monthly payments will be determined by the Social Security Administration following application for payments.

b. The Effect of Continued Work on Receipt of Benefits

A beneficiary is required to report to the Social Security Administration when he begins working and expects to earn over \$1,200 in a year. All earnings from work, whether employment or self-employment, and whether or covered by social security, must be considered. Investment income need not be considered. A retired worker, or dependent of a disabled worker, or a survivor, who does not earn more than \$1,200 a year, can get benefit checks for all 12 months of the year. A retired worker's dependent who does not earn more than \$1,200 a year can get benefits for all the months the worker does. If in any year a beneficiary earns more than \$1,200, some or all of his benefits for months before he reaches age 72 are withheld. The amount withheld depends on how much his yearly earnings exceed \$1,200 and in how many months he works.

c. Events That May Affect Benefits

A variety of changes in the personal, family, or legal status of a beneficiary may affect his benefits, and each beneficiary is required to notify the Social Security Administration of the occurrence of such events. Each beneficiary is furnished instructions as to what events to report and how to make such reports. The events to be reported are somewhat different if the beneficiary is outside the United States.

d. Refunds

No refund of Social Security taxes may be made except when payments have exceeded the tax requirements. Such refund is claimed on the employee's income tax return filed for the year in which the overpayment occurred. Information concerning a refund of FICA tax should be obtained from the District Director of Internal Revenue.

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e. Appeal Rights

If a beneficiary is not satisfied with the Social Security Administration's action on his claim, he may request that it be reconsidered; subsequently, he may also request a hearing before a hearing examiner of the Bureau of Hearings and Appeals, and a review of the hearing examiner's decision by the Appeals Council. Ultimately, he also has the right to bring a civil action in a U. S. District Court.

679.8 Report of Deductions

Each employee is furnished a statement of the total amount of earnings subject to FICA deductions and of the FICA deductions made, on Form W-2, Withholding Tax Statement, after the close of the calendar year. In the event of separation during the calendar year, Form W-2 should be given the employee not later than 30 days after the last payment of salary is made.

679.7 Social Security Numbers

All U. S. citizen Federal employees must have social security numbers whether or not subject to social security coverage. All non-U. S. citizen employees performing service in the United States and subject to income and social security taxes must also have social security numbers. The number should be shown on Form W-4, Employee's Withholding Exemption Certificate, furnished the office maintaining employee accounts.